

1 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

2 -----x

18-CR-681 (WFK)

3 UNITED STATES OF AMERICA,

United States Courthouse
Brooklyn, New York

4 Plaintiff,

5 -against-

October 16, 2019
9:30 a.m.

6 JEAN BOUSTANI,

7 Defendant.

8 -----x

9 TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL
BEFORE THE HONORABLE WILLIAM F. KUNTZ, II
10 UNITED STATES DISTRICT JUDGE
BEFORE A JURY

11 APPEARANCES

For the Government:

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25 produced by computer-aided transcription.

GEORGETTE K. BETTS, RPR, FCRR, CCR
Official Court Reporter

PROCEEDINGS

1 (In open court.)

2 THE COURTROOM DEPUTY: All rise.

3 The Honorable William F. Kuntz, II, is now
4 presiding.

5 Criminal cause for trial, Docket Number 18-CR-681,
6 U.S.A. versus Boustani.

7 Counsel, please state your appearances for the
8 record.

9 MR. BINI: Mark Bini, Hiral Mehta, Margaret Moeser,
10 Katherine Nielsen, Lillian DiNardo, and -- she'll be back in a
11 moment -- Special Agent Angela Tassone for the FBI.

12 Good morning, Your Honor.

13 THE COURT: Good morning. I think we have the
14 spellings. So, yes.

15 MR. JACKSON: Good morning, Your Honor. Randall
16 Jackson on behalf of Mr. Boustani.

17 MR. SCHACHTER: Michael Schachter on behalf
18 Mr. Boustani, Your Honor. Good morning.

19 MS. DONNELLY: Casey Donnelly on behalf of
20 Mr. Boustani.

21 MR. DI SANTO: Phillip DiSanto on behalf of
22 Mr. Boustani.

23 MR. MC LEOD: Ray McLeod on behalf of Mr. Boustani.

24 THE COURT: The record should reflect that
25 Mr. Boustani is here as well.

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1 You may be seated. Ladies and gentlemen of the
2 public, you may be seated as well.

3 I apologize for the delay. One of our jurors is not
4 here, and so I'm going to ask counsel, first the government,
5 and then defense counsel on how they suggest we proceed.

6 As you know, as is the practice in this Court, we
7 have seated a total of 16 jurors, and one of the jurors is not
8 here. The jury office has reached out to that juror and has
9 gotten no response from the telephone calls and the messages.
10 We've been waiting now 90 minutes, as you well know. So I
11 will be guided by what is requested of counsel. We'll start
12 first with the government and then with defense counsel.

13 What is your suggestion?

14 MR. BINI: Your Honor, it would seem that it would
15 be the right thing to do to excuse that juror and replace them
16 with an alternate juror if they are one of the 12.

17 THE COURT: All right. Let me ask the defense
18 counsel. What is your view as to how we should proceed?

19 MR. JACKSON: Your Honor, may we inquire as to who
20 the juror is that's missing?

21 THE COURT: You may inquire, but before I answer the
22 question, tell me how you think we should proceed.

23 MR. JACKSON: Your Honor, respectfully, I would like
24 to confer with my client, but I think it's difficult to have a
25 discussion with him about it very briefly without knowing who

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1 the juror is.

2 THE COURT: The juror is Juror Number 14.

3 (Pause in proceedings.)

4 MR. JACKSON: Your Honor, we also believe it would
5 be appropriate at this point.

6 MR. BINI: The juror --

7 THE COURT: Ah, Juror Number 14, you're here.

8 THE JUROR: A long time.

9 THE COURT: Welcome. Okay. You know, I suggested
10 that people might check in various locations for you. I'm
11 going to ask my -- the court security officer -- if the court
12 security officer is here -- Mr. Jackson, would you have Juror
13 Number 14 brought into the jury room and then you will join
14 your colleagues.

15 Just come forward, ma'am. Come forward.

16 Thank you. I'll ask one of my law clerks to beam
17 you into the sacred space and you will join your colleagues.
18 I'm sorry that you were waiting out there, ma'am. Please come
19 this way and your colleagues are there. Thank you. Take your
20 time. No worries.

21 We will give Juror Number 14 a moment to collect her
22 thoughts and then we will have the jury brought in and then we
23 will have opening statements.

24 MR. BINI: Thank you, Your Honor.

25 THE COURT: You're welcome.

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1 You never saw that on Matlock or Perry Mason.

2 Welcome to real trials, ladies and gentlemen.

3 MR. BINI: Your Honor, we just wanted to note that
4 the government believes that nothing that was said was
5 prejudicial at all as the confusion was -- as you sort of
6 through the confusion found the juror. So we just wanted to
7 note that on the record.

8 THE COURT: Is that the view of the defense counsel
9 as well?

10 MR. JACKSON: Your Honor, we are not aware of
11 anything, so we would, I think, just like to take -- we'd like
12 to proceed for now and just take a moment to think through
13 whether later on we need to raise with the Court if there are
14 any procedures that need to be taken to assure that the juror
15 didn't receive any information that was improper, but we're
16 certainly in agreement that we're not aware at this time of
17 any such information.

18 THE COURT: Is that acceptable to the government?

19 MR. BINI: It is. However, if the defense believes
20 that there is some problem, we would ask that they raise it
21 now.

22 THE COURT: Do you believe that there is some
23 problem of which you are aware now?

24 MR. JACKSON: As I just said, Your Honor, we're not
25 aware of anything now. We just -- in some situations, you

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1 know, further inquiry might be required. We're not aware
2 right now. We'd just like to take a moment -- we'd like to
3 continue for the day, not delay the jury further, and then let
4 the Court know later on if we think that there is further need
5 of inquiry.

6 THE COURT: Would you like me to inquire of the
7 juror now because I'm prepared to do that, if you would like
8 me to do that now, outside the presence of the other jurors,
9 of course, and on the record and with your client present.

10 I'd be happy to have counsel suggest what I ought to
11 inquire about at this point.

12 MR. SCHACHTER: May we have just a moment, Your
13 Honor?

14 THE COURT: Of course.

15 MR. JACKSON: We don't think any inquiry is
16 required, Your Honor.

17 THE COURT: Does that mean you're waiving the right
18 to have the Court inquire of this juror?

19 MR. JACKSON: Yes, Your Honor.

20 THE COURT: Is that acceptable to the government?

21 MR. BINI: Yes, Your Honor.

22 THE COURT: Okay. Mr. Jackson, would you check with
23 the CSO and see if the jury is ready to be brought in for
24 opening statements?

25 THE COURTROOM DEPUTY: Sure.

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1 THE COURT: Thank you.

2 (Jury enters courtroom.)

3 THE COURT: Good morning, ladies and gentlemen of
4 the jury. Welcome back. Thank you for your attendance and
5 your time. I know we had a little of bit of a delay and I
6 apologize for that. That's on me. So please accept my
7 apologies. And please be seated, ladies and gentlemen of the
8 public. Please be seated as well, counsel.

9 As I promised you yesterday, we're going to have
10 opening statements today from counsel. First we'll hear from
11 the government, who has the burden of proof beyond a
12 reasonable doubt, and that stays with them throughout the
13 trial, as you well know, and then we will have opening
14 statements by defense counsel, if they chose to make one.
15 They don't have to make one. Defense doesn't have to do
16 anything, as I said before.

17 You see that there is a podium there, and counsel
18 will be rooted behind that podium because, as I told you, we
19 practice the "Mother may I leave the podium to invade the
20 personal space of the jurors?"

21 And I say, "No, you may not."

22 So they would love to get up and close personal with
23 you, but they will stay behind the podium not because they're
24 being standoff-ish but because Judge Vader insists that they
25 stay behind the podium.

OPENING STATEMENT - MS. MOESER

1 So with that, we will have opening statements from
2 the government, and then if they wish to make an opening
3 statement, defense counsel.

4 Again, just argument. It's not evidence. The
5 evidence comes later.

6 MS. MOESER: This is a case about lies and greed.
7 The defendant, Jean Boustani, was the mastermind of a
8 \$2 billion fraud and money laundering scheme. The defendant
9 was the lead salesman for an international shipbuilding
10 company called Privinvest, and he wanted to do business in
11 Mozambique, a country in Africa.

12 But instead of winning Mozambique's business
13 honestly, the defendant paid over \$100 million in bribes to
14 get Mozambique officials to approve three projects for his
15 company worth nearly \$2 billion. Mozambique approved those
16 contracts, but they didn't have \$2 billion. So the defendant
17 had to find someone to loan Mozambique the money.

18 Once again, instead of getting the loan honestly,
19 the defendant engaged in fraud. He paid bankers \$50 million
20 in secret kickbacks to get their banks to approve the
21 projects, and he lied about what the loan money would be spent
22 on, promising that it would only be spent on the projects and
23 would not go to bribes and kickbacks.

24 The defendant and his criminal partners did not keep
25 this promise. He used the loan money to pay over \$150 million

OPENING STATEMENT - MS. MOESER

1 in bribes and kickbacks and pocketed \$15 million for himself.
2 As part of his scheme, the defendant exploited the U.S.
3 financial system, defrauded U.S. investors, and laundered
4 money through U.S. banks. The defendant got caught and his
5 fraud was revealed and that's why we're here today.

6 My name is Molly Moeser. I'm a trial attorney with
7 the Department of Justice. I'm here today with Assistant
8 United States Attorneys, Mark Bini and Hiral Mehta; Department
9 of Justice trial attorney, Katherine Nielsen; FBI Special
10 Agent, Angela Tassone, and paralegal specialist, Lillian
11 DiNardo. Together we represent the United States.

12 You will hear that the defendant was the lead
13 salesman for the shipbuilding company, Privinvest. The
14 evidence will show that between 2011 and 2016 the defendant
15 and his criminal partners created three deals to enrich
16 themselves by defrauding investors and exploiting Mozambique.

17 The first deal, called Proindicus, was supposed to
18 create a coastal protection system for Mozambique's long
19 coastline, kind of like a Coast Guard. The second deal,
20 called EMATUM, was supposed to be for tuna fishing boats. And
21 the third deal, called MAM, was supposed to build a shipyard
22 in Mozambique. The evidence will show that the defendant and
23 his criminal partners followed the same pattern to get each
24 deal done.

25 First, the defendant agreed to bribe Mozambicans,

OPENING STATEMENT - MS. MOESER

1 including government officials, to get his company the
2 contracts for the three projects. Second, the defendant
3 agreed to make secret payments to bankers to get their banks
4 to approve the loans for the three projects. And, third, the
5 defendant and his criminal partners lied to get funding for
6 the loans, falsely promising that the loans would be used only
7 for the projects and not for bribes.

8 After the projects were approved and funded, the
9 defendant convinced the banks to send the loan money directly
10 to his company, Privinvest, not to Mozambique, and he stole
11 from that loan money to pay his partners the bribes and
12 kickbacks he had promised.

13 So let's walk through how this pattern played out
14 for each of the deals. First, you will hear about the
15 Proindicus project. The evidence will show that from the very
16 beginning in 2011 the defendant agreed to pay bribes to get
17 the Mozambique government officials to approve the project.
18 The defendant and his criminal partners knew what they were
19 doing was illegal, so they used code words and they called the
20 bribes "chickens." The defendant agreed to pay 50 million
21 chickens to get Mozambique to approve the Proindicus project.

22 Once Mozambique approved the project, the defendant
23 had to find a bank to loan the money. Now, you can't just go
24 to your neighborhood bank and get \$2 million. You have to go
25 to an international investment bank. They can raise more

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1 money because they can get other investors to take pieces of
2 the loan. Here the defendant reached out to bankers he knew
3 in the international investment bank called Credit Suisse, and
4 in 2013 he got them to agree to send all of the loan money
5 directly to his company, not to Mozambique.

6 In other words, the defendant was going to get the
7 money and decide how to spend it. In total, over the three
8 projects, the defendant and his company received almost
9 \$2 billion.

10 Now, Credit Suisse was ready to find other lenders
11 and put together a loan for hundreds of millions of dollars
12 for Proindicus, but a banker at Credit Suisse told defendant
13 he could get even more money. So the defendant and the banker
14 struck a corrupt deal. The banker would work to secretly get
15 the biggest loan possible and the defendant would make secret
16 payoffs to the banker. The bigger the loan, the bigger the
17 payoffs. The defendant was ultimately able to get
18 \$622 million for the Proindicus project.

19 To get the deal done, Credit Suisse had to get
20 investors around the world to buy pieces of the loan. The
21 loan documents sent to investors contained two key lies.
22 First, it said the loan money would only be used for the
23 protection project; that is, the equipment and the boats.

24 Second, it said that no bribes would be paid. These
25 were lies and the defendant knew it because he had already

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1 agreed to pay his criminal partners bribes and kickbacks from
2 the loan money. Bribes and kickbacks are not boats and
3 equipment.

4 The evidence will show that the second deal, EMATUM,
5 followed the same criminal pattern. For the EMATUM project,
6 the defendant convinced Mozambique to buy tuna fishing boats
7 from his company, again, by bribing Mozambican officials, and
8 he convinced Credit Suisse and another international
9 investment bank to provide the loans for those projects,
10 again, by paying off Credit Suisse bankers.

11 Now, the defendant already had one Credit Suisse
12 banker on his payroll, but he needed a second inside man to
13 get this deal done. So he signed up a second Credit Suisse
14 banker. The two bankers worked together with the defendant to
15 get Credit Suisse to approve the deal, and in exchange the
16 defendant sent them both millions of dollars in secret
17 payoffs.

18 EMATUM was even bigger than Proindicus, an
19 eye-popping \$850 million for tuna boats. To get that much
20 money, the defendant and his criminal partners had to sell the
21 loan as a kind of a security called a bond. A bond is like a
22 stock that you can invest in.

23 They sold the bond to investors around the world,
24 including in New York. Many investors in the United States
25 received a document that summarized the loan and, again,

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1 contained two key lies. First, that the money would only be
2 used for the project, the tuna fishing boats, and, second,
3 that no corrupt payments would be made. Those were lies and
4 the defendant knew it because he promised millions of dollars
5 for the loans to pay bribes and kickbacks to government
6 officials and to bankers.

7 The third deal was called MAM. The evidence will
8 show, just like the first two deals, the defendant followed
9 the same pattern of bribes, kickbacks, and lies. You will
10 hear that in 2014 the defendant and his criminal partners
11 convinced Mozambique to build a shipyard and another
12 international bank to loan \$535 million to fund it.

13 Again, the loan document contained two lies. It
14 falsely claimed that all of the loan proceeds would be used
15 only for the project, and also falsely stated that the loan
16 money would not be used to pay bribes or kickbacks. But,
17 again, the defendant used the loan money to pay millions to
18 officials and kickbacks to bankers. The defendant laundered
19 the money -- laundered money from all three loans through the
20 U.S. banks to pay the bribes and kickbacks he promised, hiding
21 these payments behind fake invoices and agreements.

22 Now, you'll learn that the defendant and his company
23 did provide some boats and equipment to Mozambique for these
24 projects, but they inflated the prices so they could steal
25 from the loan money to pay off the officials and the bankers

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1 and to line their own pockets. The defendant and his criminal
2 partners claimed that these projects would be so successful
3 that they would be able to pay the loans back from their own
4 profits. But the projects were a bust.

5 In 2016, the defendant and his criminal partners had
6 a real problem. Big payments were due on the EMATUM loan and
7 EMATUM was going to miss them. The evidence will show that
8 the defendant and his criminal partners lied again. They
9 decided they needed to convince investors, including investors
10 right here in New York, to give them a little more time to pay
11 back the loans. To do that, the defendant and his partners
12 had to convince investors to change the terms of the deal.

13 By 2016, U.S. investors had put literally hundreds
14 of millions of dollars into the EMATUM deal. So the
15 defendant's partners came to New York, met with U.S.
16 investors, and told investors they needed more time to pay
17 back the loan but that they were going to make those payments.

18 What they didn't tell investors was that the EMATUM
19 loan was built on fraud. Instead of using the loan only for
20 boats, the defendant had been paying millions of dollars in
21 bribes and kickbacks. In April 2016, after tricking
22 investors, the investors agreed to change the terms of the
23 deal. Right after that, the deal started to fail. People
24 started asking questions, the truth came out. The defendant
25 was arrested and now faces justice here in the United States.

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1 For his criminal conduct in connection with the
2 deals, the defendant is charged with three crimes, all of
3 which are conspiracies. A conspiracy is just an agreement
4 between two or more people to commit a crime.

5 First, the defendant is charged with conspiracy to
6 commit wire fraud for defrauding investors, using wires in and
7 through the United States. Wires are just things like phone
8 calls, emails, or bank transactions.

9 Second, the defendant is charged with conspiracy to
10 commit securities fraud, for defrauding investors in the
11 EMATUM bond.

12 And, third, the defendant is charged with conspiracy
13 to commit money laundering for paying money to promote the
14 fraud scheme and for using phony invoices and fake agreements
15 to conceal the bribes and kickbacks.

16 We will prove the defendant is guilty of these
17 charges through many different kinds of evidence, including
18 witness testimony, emails, and financial records. First,
19 you'll hear from a number of witnesses during this trial,
20 including victims, insiders, and experts. You will hear from
21 victims of the fraud. These are investors who will tell you
22 that they did not know about the bribes or kickbacks before
23 they invested in the deals.

24 Now, the defendant did not meet with the investors
25 personally. He let his criminal partners and the banks pass

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1 along his false promises and lies. The investors will tell
2 you that if they knew that money from the loans would be used
3 to secretly pay bankers and Mozambican government officials
4 instead of going to the projects as the defendant and his
5 co-conspirators had promised, they never would have invested.

6 You'll also hear from the defendant's criminal
7 partners, the bankers on the inside who were part of the
8 defendant's scheme. They will tell you what the scheme looked
9 like from the inside, what actually happened. The bankers
10 will tell you that the defendant paid them kickbacks out of
11 the loan money so that their bank would approve the loans.

12 These bankers have pled guilty for their role in
13 these frauds, and they have agreed to cooperate with the
14 government. They will tell you that by cooperating and by
15 testifying truthfully, they hope to receive a more lenient
16 sentence. You should listen carefully to their testimony.
17 When you do, you will see it is supported by the other
18 testimony and the evidence in this case.

19 And, finally, you'll hear from experts who will
20 explain some of the financial terms and explain the boats the
21 defendant sold to EMATUM were worth hundreds of millions of
22 dollars less than the defendant claimed.

23 In addition to hearing from witnesses, you're going
24 to see emails discussing the bribes. You'll see fake invoices
25 and consulting agreements the defendant asked his criminal

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1 associates to create to hide these payments. You'll also see
2 deal documents and financial records. For example, you'll see
3 the loan documents investors received which falsely stated
4 that none of the money from the loans would be used for bribes
5 or kickbacks. You'll also see the bank records showing the
6 bribes and kickbacks the defendant paid through U.S. bank
7 accounts.

8 The testimony of these witnesses and the documents
9 you'll see will show you that the defendant engaged in a
10 massive \$2 billion fraud and money laundering scheme,
11 pocketing at least \$15 million for himself.

12 Ladies and gentlemen, at the end of this trial after
13 you have seen and heard all of the evidence, we will speak to
14 you again. At that time we will ask you to return the only
15 verdict supported by the evidence, that the defendant is
16 guilty of all three crimes. Thank you.

17 THE COURT: Thank you, counsel. Again, that's just
18 argument. Now we're going to have more just argument from
19 defense counsel.

20 Please come forward.

21 MR. SCHACHTER: Good morning.

22 ALL: Good morning.

23 MR. SCHACHTER: In 1983, a magician named David
24 Copperfield made the Statue of Liberty disappear. I was a
25 kid at the time. I remember it was a major television event.

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1 David Copperfield was on a stage right in front of the Statue
2 of Liberty. It was nighttime, so it was dark, and there was a
3 live studio -- live audience that was right there on the stage
4 with him. And they were looking at the Statue of Liberty
5 through two huge brightly lit scaffolding towers, and as they
6 looked at the Statue of Liberty, right above the Statue of
7 Liberty's head was a helicopter and the Statue of Liberty was
8 ringed by a circle of lights.

9 And then they took the curtain and they hoisted it
10 up across the two scaffolds, the towers, so that the audience
11 couldn't see the Statue of Liberty anymore. And then there
12 was really loud music and David Copperfield gave a long speech
13 about how if you take your liberty for granted, you can lose
14 it. And then he put his fingers to his temple as if he was
15 willing the Statue of Liberty to disappear.

16 The curtain dropped, and there with the helicopter,
17 there was the ring of lights but the Statue of Liberty was
18 gone. How did David Copperfield do it?

19 What David Copperfield did is called misdirection.
20 That's where a magician directs the audience's attention to
21 one thing to distract them from what's important, to distract
22 them from what they should really be looking at.

23 You see, while David Copperfield was distracting the
24 audience with his loud music and the speech that he was giving
25 about liberty, he literally moved the audience. The

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1 audience -- the entire stage, the platform, was like a giant
2 lazy Susan. It was movable. And as the loud music played,
3 very slowly and just a little, the stage moved so that -- and
4 then when they dropped the curtain, the audience was now no
5 longer looking at the Statue of Liberty, they were looking out
6 at New Jersey. The scaffolding tower, which had moved,
7 blocked their view, and the helicopter moved over a little bit
8 and there was a duplicate ring of lights so it looked to the
9 audience as if the Statue of Liberty had disappeared. But
10 really they had just been distracted. Their attention had
11 been misdirected.

12 The prosecutor, Ms. Moeser, spent a lot of time in
13 her opening statement talking about payments that she said
14 Jean Boustani made to government officials in Mozambique. You
15 heard of 15 million chickens. We'll hear a lot of that, I'm
16 sure, during the trial.

17 And I am going to tell you right now that Jean
18 Boustani was deeply involved in those payments. Now, if that
19 was what the prosecution needed to prove here, that Jean
20 Boustani was involved in paying millions of dollars to
21 Mozambican officials, well, then, this would be a very short
22 trial because I'm telling you right now, that happened.

23 But, ladies and gentlemen, I am sorry to break the
24 news that you've already heard, that we are going to sit in
25 this courtroom for weeks and weeks because Jean Boustani is

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1 not charged with the crime of making payments to Mozambican
2 officials. The United States is not the world's policeman and
3 Jean Boustani is a Lebanese citizen who is working for a
4 Lebanese company that was making payments to officials in a
5 country that is 7,000 miles away from here. Literally on the
6 other side of the globe.

7 And so all of the emails that you're going to see in
8 this case about payments to officials in Mozambique, all of
9 the emails about chickens, that is misdirection. It is
10 distracting your attention from what this case is about.

11 What is Jean Boustani charged with? In order to
12 bring a case against Jean about events that occurred on the
13 other side of the globe, the prosecution has tied themselves
14 up into knots, trying to come up with charges that, when you
15 see the evidence, you will see make no sense.

16 Jean is charged with conspiracy to commit securities
17 fraud, conspiracy to commit wire fraud, and conspiracy to
18 commit money laundering. And he is completely innocent of
19 those charges. Jean is accused of defrauding some of the
20 shrewdest hedge funds in the world, and the evidence is going
21 to show that those allegations are false.

22 You are going to sit in this courtroom for weeks and
23 weeks and you are not going to see not a shred of evidence
24 that Jean Boustani ever planned, schemed, or even thought
25 about defrauding investors or engaging in money laundering.

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1 He did not do that. He is not guilty.

2 Jean Boustani has never met any investor. He never
3 sent an email or a text message to any of these investors. He
4 did not lie to any investors. He did not cheat any investors.
5 Please, I ask you each day make a mental note to yourself.
6 Imagine you're creating a list as you walk into the courtroom.
7 That list will be entitled, "Evidence that Jean wanted to
8 defraud an investor." Ladies and gentlemen, at the end of
9 this trial your mental list will be a blank page. There will
10 be nothing on it. Nothing.

11 You're also going to see that Jean also never
12 laundered money. There isn't going to be evidence that he was
13 trying to hide money. He didn't open a bunch of car washes or
14 cash businesses like you see on "Ozark" or "Breaking Bad."

15 The money that Jean Boustani received was deposited
16 into accounts in his own name, and his bank accounts had
17 nothing to do with the United States. He did not have U.S.
18 bank accounts. He has never once spoken or emailed with
19 anyone who worked at a U.S. bank. He did not send money to
20 the United States. He did not receive money from the United
21 States.

22 There will be no evidence that Jean Boustani for a
23 second thought that he was violating United States law. In
24 fact, during all of the events that you heard the prosecutor
25 talk about, Jean Boustani never spoke to a single person in

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1 the United States. He did not send a single email to anyone
2 in the United States. He never thought about America. The
3 United States did not cross the mind of this Lebanese citizen
4 as he did business in the country of Mozambique. In fact,
5 until Jean Boustani was arrested in another country and
6 forcibly brought here, Jean had never once in his life been to
7 the United States of America.

8 Ladies and gentlemen, my name is Michael Schachter
9 and I, along with my colleagues, Randall Jackson, Casey
10 Donnelly, Phil DiSanto, and Ray McLeod, have the honor of
11 representing Jean Boustani.

12 You met Jean briefly during the course of jury
13 selection. The evidence in this case is going to show that
14 Jean is a kind, decent, warm person. He's married to a
15 wonderful woman. They have a six-year-old son named Leo.
16 Jean has never in his life been charged with any crime before
17 this case. Jean is from Lebanon. He grew up during the
18 Lebanese civil war, and Lebanon, you're going to learn, is a
19 cultural melting pot. It was at one point called the Paris of
20 the Middle East. That's in part because Lebanon is right at
21 the cross-section where Europe and Asia and Africa all meet.

22 Christians like Jean live alongside Muslims --

23 MR. BINI: Objection, Your Honor.

24 MR. SCHACHTER: -- and people of all --

25 THE COURT: Overruled. Overruled. It's just

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1 argument. It's not evidence.

2 Go right ahead.

3 MR. SCHACHTER: People speak English and French and
4 Arabic, and growing up in Lebanon gave Jean an ability to
5 connect with people from different cultures, which made it
6 natural for the job that he found himself in.

7 Jean went to work in sales for a company called
8 Privinvest. That's a Lebanese company, and it's actually the
9 world largest private shipbuilding company. Privinvest
10 manufactures naval vessels, like large frigates and smaller
11 warships that are called corvettes. They make superfast
12 interceptor ships, which you're going to hear something about
13 during the course of this trial. They even make submarines.

14 They supply the French and the German navies, and
15 being based in Lebanon, it also supplies American allies in
16 the Middle East like Saudi Arabia and the United Arab
17 Emirates. Privinvest also makes what are called super yachts.
18 Those are pleasure ships that can be 300 feet long and they
19 can cost -- each one hundreds of millions of dollars.

20 Privinvest makes these naval vessels and these super
21 yachts at very large shipyards that are located in England and
22 German, and Greece and also they used to have one that was
23 based in Abu Dhabi. It employees thousands of people. It's a
24 very big company.

25 Now, Jean's focus was on selling Privinvest's boats

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1 and other equipment to governments in Africa. Now, not every
2 country in the world is like the United States, and selling to
3 governments in Africa is not like selling to the United States
4 defense departments. Lord knows we have our share of
5 corruption in this country with political contributions and
6 lobbying fees that corporations pay, but in many countries in
7 Africa the corruption is more direct than it is here.

8 The evidence will show that in many countries in
9 Africa and in many places in the world, making large payments
10 directly to government officials is a cost of doing business
11 with those governments. And the evidence is going to show
12 that that is the way it is in Mozambique.

13 Now, you may not like that. You may think that it
14 is bad or wrong for a Lebanese company to make large payments
15 to government officials in the country of Mozambique. But the
16 issue in this case is not whether you are comfortable with the
17 idea that paying government officials is a cost of doing
18 business with some countries. The only issue for you to
19 decide here in this courtroom is whether the prosecution has
20 done its job of proving to you beyond a reasonable doubt that
21 Jean Boustani is guilty of the specific crimes that the
22 prosecution has charged him with.

23 And they are specific questions: Did the
24 prosecution show you evidence that proved to you beyond a
25 reasonable doubt that Jean Boustani conspired to defraud

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1 investors? And did they prove to you, beyond a reasonable
2 doubt, that Jean Boustani conspired to launder money? At the
3 end of this trial the answers to those questions will be no.

4 Now, the prosecution told you about three projects:
5 The Proindicus coastal monitoring project, the EMATUM fishing
6 fleet project, and the MAM shipyard construction project. To
7 understand just how far Jean was from any investor, you need
8 to understand what Jean's role was and where much later the
9 investors come in. Each of these projects, you're going to
10 learn during this trial, actually involves three, four, or
11 five separate transactions. That is going to be important for
12 you to understand.

13 The evidence will show that Jean was involved in one
14 transaction and the investors are in a completely different
15 transaction that occurs months and sometimes years later
16 involving a completely different set of people. You're going
17 to learn that Jean and these investors had absolutely nothing
18 to do with each other.

19 We're going to start with Proindicus, which the
20 evidence will show really involved three distinct separate
21 transactions. Transaction one: Proindicus, which was a
22 Mozambican company, entered into a contract with Privinvest to
23 help rebuild Mozambique's coastal monitoring system, which
24 you're going to learn had been destroyed during the course of
25 two wars that had been fought in the country of Mozambique.

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1 Mozambique has a huge coastline. It is 1600 miles
2 long and its territorial waters extend 200 miles from its
3 coastline. So just to put that in perspective, the state of
4 California is about half that size. California's coastline is
5 about 800 miles long. And so if you want to picture the
6 territorial waters of Mozambique, imagine a space --
7 California is also about 200 miles wide. So if you want to
8 picture the waters that needed to be monitored, imagine two
9 Californias, one on top of each other. That's Mozambique's
10 territorial waters.

11 And Mozambique had a problem because it had no way
12 of seeing what was happening in its territorial waters. That
13 was a problem because the coast of Mozambique is nothing like
14 the coast of California. This is a very dangerous part of the
15 world. They're just a short distance from Somalia. If any of
16 you have seen the movie about Captain Phillips, you know about
17 the scourge of pirates that would attack ships that would come
18 to port in Mozambique or neighboring countries or just travel
19 through their territorial waters.

20 Mozambique also faced other problems. They had
21 issues with drug trafficking coming into the country,
22 terrorism, ships that would come into Mozambique's waters and
23 dump environmental pollutants in those waters, and they had a
24 significant problem with poaching. A significant percentage
25 of the world's tuna, you're going to learn, actually comes

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1 from the waters just outside of Mozambique. But Mozambique
2 sees almost nothing from this very rich resource. Large
3 commercial fishing vessels from China and from Japan and other
4 countries come into their waters, scoop out tons of fish, and
5 don't pay Mozambique not a nickel.

6 So the evidence is going to show that in 2010,
7 Mozambique decided that it was time to rebuild their coastal
8 monitoring system. Why 2010? Around that time, Mozambique
9 learned that it was about to go from being a very poor country
10 to one of the world wealthiest. In the northern part of the
11 country, Mozambique discovered the world's fourth largest
12 deposit of natural gas.

13 People started calling Mozambique the Qatar of
14 Africa. For those of you who are unfamiliar, Qatar is one of
15 the wealthiest countries in the world because it has huge
16 natural gas deposits. Oil companies descended on Mozambique,
17 agreeing to pay Mozambique billions of dollars for the right
18 to develop and sell liquified natural gas that they will pull
19 out of drilling rigs in Mozambique's territorial waters.

20 Now, the evidence is going to show that these
21 security -- these rigs needed security to protect them from
22 pirates and from terrorism and other threats, and that those
23 oil companies were actually paying millions of dollars to
24 security services to patrol the waters around those rigs.

25 The evidence will show that Mozambique figured that

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1 if it could provide secure waters around those rigs, then the
2 country of Mozambique could charge those oil companies for
3 those security services instead of those oil companies paying
4 those private security services. So in that way a coastal
5 protection system would not only provide national security but
6 it would also provide a way of generating revenue for the
7 country.

8 So Mozambique formed a company that would be owned
9 by its defense department and its secret service, and that
10 company became Proindicus. Proindicus, well I should say,
11 Mozambique was colonized by Portugal. It was a Portuguese
12 colony for several hundred years, and the language they speak
13 in Mozambique is Portuguese. "Proindicus" is Portuguese for
14 pro, meaning "for," and "indicus" in Portuguese means Indian
15 Ocean. So for the Indian Ocean.

16 So this government-owned company was formed to find
17 a contractor to purchase a coastal surveillance system and
18 then to operate that coastal surveillance system. Now, as a
19 salesman for Privinvest, Jean was trying to sell Privinvest's
20 ships, aircraft, radar, and experience to Mozambique to be the
21 ones that would help them rebuild their coastal surveillance
22 system.

23 Now, the evidence will show that Privinvest
24 delivered 36 sophisticated vessels that were specially
25 constructed to move at incredibly high speeds through the very

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1 rough waters of the Indian Ocean. Some of these vessels,
2 you're going to learn, were the first of their kind.
3 Privinvest also delivered six aircraft. They built 16 radar
4 stations that dotted Mozambique's coastline. They provided
5 satellite imagery, all of which together delivered to a
6 central command and control station, a complete picture of
7 what was happening in Mozambique's territorial waters.

8 And, ladies and gentlemen, you are going to see the
9 ships that Privinvest delivered. You're going to see the
10 aircraft. You're going to see that Privinvest delivered
11 everything that it was required to under their contract, and
12 then trained the Mozambicans how to operate and handle the
13 equipment that they sold. And that was Transaction 1.

14 Transaction 2: Proindicus, the Mozambican company,
15 took out a loan from Credit Suisse International, which is an
16 investment bank based not in the United States, based in
17 London to borrow the money that they needed to pay Privinvest
18 for this project.

19 (Continued on the next page.)
20
21
22
23
24
25

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1 MR. SCHACHTER: Now, the prosecution says that in
2 this loan, this is where somehow Jean Boustani had a scheme to
3 defraud investors and you're going to see that that is going
4 to make no sense whatsoever. You're going to see that Jean
5 Boustani had nothing to do with investors.

6 The prosecution claims that Jean Boustani is guilty
7 of fraud because of what is in Credit Suisse's 96-page
8 single-spaced loan agreement with this Mozambican company,
9 Proindicus.

10 You're going to see this loan agreement and you're
11 going to see that the language that Ms. Moeser told you about
12 is buried literally in the middle of this 96-page loan
13 agreement specifically on Pages 41 and 42.

14 On those pages, that Mozambican company agreed that
15 it would use the loan to pay Privinvest for the construction
16 of this monitoring and protection system for its territorial
17 waters. The Mozambican company, Proindicus, also agreed that
18 it will not use the loan proceeds for any corrupt act.

19 And the prosecution claims that Proindicus's, the
20 Mozambican company's, agreement was not true. Because after
21 Proindicus paid Privinvest for the project, they note that
22 Privinvest later paid government officials.

23 I want to highlight for you three very important
24 facts that will be shown by the evidence.

25 First, Jean is not the one who is saying any of

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1 these things. These are not his words. They are not his
2 promises. Jean sells books. He's not a lawyer and he's not a
3 banker, and he didn't write this agreement. Credit Suisse
4 International didn't turn to the book salesman to ask them to
5 draft their 96-page single-spaced agreement with this
6 Mozambican company. There's not going to be any evidence that
7 Jean even read Credit Suisse's loan agreement with that
8 Mozambican company much less that he read the particular
9 provisions on Pages 41 and 42 that the prosecution now says is
10 Jean Boustani's fraud.

11 Second, the evidence is going to show that those
12 statements in the loan agreement are true. Proindicus said
13 that the loan was going to be used to pay for the coastal
14 monitoring project that was being purchased from Privinvest
15 and that's exactly what happened. Those loan proceeds went to
16 pay Privinvest for this project.

17 If you take out a car loan to by a \$30,000 Ford, the
18 money that the bank pays Ford, it doesn't all go to build the
19 car. Some of it is profit and Ford can do whatever it wants
20 to with its profit. They can throw a giant employee picnic,
21 it can use some of its profits to make political contributions
22 to government officials, it can use some of its profits to
23 hire lobbyists to influence government officials. You're not
24 lying if when you take out your loan you say that the loan is
25 being used to buy the Ford. The evidence is going to show

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1 that these statements in these loan agreements are just true.

2 Third, the evidence is going to show that Jean did
3 not defraud any investor with this loan agreement between
4 Credit Suisse and that Mozambican company. Jean had nothing
5 to do with those investors and they made no difference to him
6 or to Privinvest.

7 Now, really to understand that, you need to
8 understand Transaction 3 which is where the investors first
9 enter the picture. Months after the Mozambican company
10 borrowed the money from Credit Suisse, and months after
11 Privinvest had already been paid for the contract, then months
12 later, Credit Suisse made a decision that had nothing to do
13 with Jean Boustani and it had nothing to do with this company.
14 Credit Suisse made a decision to sell pieces of its loan to
15 hedge funds and institutional investors.

16 Now, what does that mean? What does a bank have
17 when it gives out a loan? It has a promise and it has risk.
18 So the bank keeps a promise to get repaid by the borrower.
19 That's what a bank has when it gives out a loan, it has a
20 promise to be repaid with interest. And the bank also then
21 has the risk that may be the borrower won't repay the loan in
22 the future.

23 The evidence will show that sometimes banks sell
24 that promise. Sometimes a hedge fund or a different bank may
25 give the bank money and buy that promise to get repaid in the

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1 future. Why? Why would a bank sell a piece of a loan? The
2 reason is that the bank gets money today. The bank doesn't
3 have to wait for some time in the future for the borrower to
4 repay the money, and the bank no longer has the risk that
5 maybe that borrower isn't going to repay the loan so that's
6 why the bank might sell the loan.

7 Now, why would a hedge fund or some other financial
8 institution decide they want to buy a piece of a loan like
9 that?

10 The evidence will show that the hedge fund or the
11 financial institution can pay way less money today than they
12 would ultimately get repaid if it turns out that the borrower
13 does repay the loan with interest as they promised. So, for
14 example, a hedge fund could decide to pay \$60 today for the
15 promise that the bank has to get repaid a hundred dollars in
16 the future. The hedge fund, of course, is taking on the risk
17 that the borrower might default, but the hedge fund is making
18 the calculation that based on their analysis they think
19 there's a pretty good shot that the borrower is going to
20 repay, and so they end up making a whole lot of money.

21 Most importantly, what is the evidence going to show
22 to you to during the course of this trial that Jean Boustani
23 had to do with Credit Suisse selling its loans to hedge funds
24 and financial institutions? Absolutely nothing. These are
25 transactions between Credit Suisse International and these

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1 investors that Jean Boustani had absolutely nothing to do
2 with.

3 I'm going to apologize that I have to do this but
4 you may remember from high school English the difference
5 between sentences that use the active voice and sentences that
6 use the passive voice.

7 When you heard from Ms. Moeser, she said investors
8 received a document, loan documents, sent to investors. And
9 that, ladies and gentlemen, you may remember, is the passive
10 voice. It does not tell you who is the one who is doing the
11 sending. It does not tell you who sent these documents to
12 these investors.

13 Now, why didn't the prosecutor use the active voice,
14 the one that tells you who is the actor, who is the one
15 telling these things to investors? Who is the one that is
16 sending these documents to investors? Because it has nothing
17 do with Jean Boustani and the prosecution knows it.

18 The prosecution has brought Jean Boustani to an
19 American courtroom accusing Jean of defrauding investors
20 because Credit Suisse International made a decision to share a
21 copy of a loan agreement that Jean did not sign and never read
22 with hedge funds and institutions that Jean Boustani had
23 nothing to do with.

24 The evidence is going to show that Jean never lied
25 to any investor who bought a piece of this Proindicus loan in

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1 this Transaction 3. Jean never talked about lying to any
2 investor. There isn't going to be any evidence that Jean had
3 any idea that these loan agreements between Credit Suisse and
4 that Mozambican company were going to be sent by Credit Suisse
5 to hedge funds and institutions.

6 The evidence is going to show that Jean Boustani was
7 figuratively and actually literally thousands of miles away
8 from any of these investors. Not only will the evidence show
9 that Jean Boustani never conspired to defraud any investor,
10 the prosecution also isn't going to be able to prove that Jean
11 Boustani committed any crime in the United States.

12 Proindicus, that project, involved a European bank,
13 Credit Suisse International, lending money to a Mozambican
14 company to pay a Lebanese contractor. The European bank then
15 sold pieces of that loan to banks and corporations in Africa
16 and Europe.

17 The evidence will show that there was not a single
18 U.S. investor, not a single one in this Proindicus investment.
19 Jean Boustani had nothing to do with this country.

20 Now, the prosecutor said that Proindicus went bust.
21 She said these projects didn't pan out, or words to that
22 effect, and the result of that was that these hedge funds that
23 decided to make this risky investment have not so far been
24 paid what they expected. But the evidence is going to show
25 that Jean is not the reason why these investments so far have

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1 not paid off. Proindicus didn't stop paying its loan because
2 Privinvest made payments to government officials.

3 The evidence is going to show that doesn't even make
4 any sense. One thing has nothing to do with the other. The
5 evidence is going to show you exactly what happened.

6 Gas prices fell dramatically in the year 2015 and
7 that meant that the oil companies stopped development of those
8 natural gas reserves and that had two effects. One is
9 Mozambique had less money coming in to pay its debts and it
10 also meant that those oil companies didn't need Proindicus's
11 security services. You're also going to learn that
12 hostilities broke out in Mozambique. One of the wars that I
13 talked about was a civil war that had been fought in
14 Mozambique between two parties and that broke out again in
15 that time period and that slowed construction of those radar
16 stations and that delayed the project.

17 So these projects were slower to make money that had
18 been expected. But you're going to see that through it all
19 the evidence is going to show that Jean worked tirelessly to
20 make Proindicus a success. And you're going to see through
21 his communications that he always believed that it would be
22 successful and that's important.

23 Ladies and gentlemen, this is a fraud case. So one
24 of the things that's going to matter to your decision is what
25 Jean intended, what Jean believed, what Jean wanted to happen.

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1 And the evidence is going to show inclusively and
2 overwhelmingly that Jean always believed that these projects
3 would be profitable and that he worked to make them
4 profitable. In fact, you're going to know it from this one
5 important fact.

6 The evidence is going to show clearly that Jean
7 wanted to use the success that he believed would be this
8 project to sell similar projects to other countries in Africa
9 and in South America. Successful projects that generate the
10 revenue that everybody was hoping for would help Jean in
11 Privinvest make additional sales. There is not going to be
12 any evidence that Jean wanted any harm to befall any investor.
13 There isn't going to be any evidence that Jean wanted
14 Proindicus to default on its loan. There's not going to be
15 any evidence, none, that Jean wanted to defraud any investor
16 that Credit Suisse sold a piece of its loan with this
17 Mozambican company, too. That's Proindicus.

18 Let's talk about EMATUM. The EMATUM transaction is
19 very similar. And this time Jean is even further away from
20 any of the investors. EMATUM actually involved four or five
21 separate transactions.

22 Transaction 1. With the money that Mozambique could
23 see on the horizon coming from its natural gas reserves,
24 Mozambique decided that it wanted to build a national fishing
25 fleet to fish itself the waters, the fish from its territorial

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1 waters.

2 And so, Mozambique entered into a contract with
3 Privinvest to build a fishing fleet. They entered into a
4 contract to purchase 24 commercial fishing vessels as well as
5 three extremely sophisticated, first of their kind, ultrafast
6 naval vessels that are called Ocean Eagle Trimarans. The
7 purpose of that is to patrol their territorial waters looking
8 for illegal fishing in their waters and also to monitor for
9 the other things that we have spoken about.

10 Just like Proindicus, Mozambique, again, formed a
11 government-owned company to operate the fishing vessels and to
12 buy these vessels from Privinvest. And this company was
13 called EMATUM, another Portuguese lesson. "Em" is the short
14 for the Portuguese empresa which means business or enterprise
15 and "atum" in Portuguese means tuna. So together, tuna
16 business.

17 And EMATUM agreed to pay Privinvest \$850 million for
18 those vessels. The evidence is going to show that these plans
19 existed long before Jean Boustani ever came to Mozambique.
20 The evidence is going to show that Mozambique had been
21 planning to bill a large national fishing fleet since 2010.
22 These were real plans to satisfy a real need for a country
23 that, thanks to its natural gas discovery, could now put its
24 plans into reality. That's Transaction 1.

25 Transaction 2. EMATUM borrowed \$500 million from

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1 Credit Suisse International in London and also \$350 million
2 from a Russian bank called Vneshtorgbank. It was called
3 Vneshtorgbank before they shortened it for good reason to VTB.

4 VTB, you're going to learn, is owned by the Kremlin,
5 so the Russian government. Just like Proindicus, Credit
6 Suisse prepared this time a 99-page loan agreement, single
7 spaced. And it's a loan agreement not with Privinvest, it's a
8 loan agreement between Credit Suisse International and this
9 Mozambican company EMATUM.

10 And the prosecution is going to focus you on the
11 same two statements in Credit Suisse's loan agreement with
12 that Mozambican company. This time they're on Pages 42 and 43
13 of that single-spaced loan agreement.

14 And on those pages, 42 and 43, EMATUM agreed that it
15 would use the loan to finance the purchase of those 27 vessels
16 as well as the rights to intellectual property so they could
17 build a larger fishing fleet all on their own as well as
18 training, and not for any corrupt act. That's the Mozambican
19 companies's agreement.

20 The evidence will show that Jean Boustani is not
21 guilty of fraud because of Credit Suisse's loan agreement with
22 that Mozambican company. Jean, again, doesn't agree to
23 anything in Credit Suisse's loan agreement with EMATUM. These
24 are not Jean Boustani's words. Jean Boustani didn't sign the
25 loan agreement. Privinvest, his company, is not a party to

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1 this loan agreement. And there's not going to be any evidence
2 that these few sentences in the middle of a 99-page
3 single-spaced loan agreement were part of any scheme to
4 defraud investors by Jean Boustani. And just like Proindicus,
5 the statements in this loan agreement were true. The loan was
6 used to finance EMATUM's purchase from Privinvest of these
7 fishing vessels and these Ocean Eagles.

8 Now, after Privinvest has been fully paid we get to
9 Transaction 3 and Transaction 4.

10 Transaction 3. Credit Suisse and Vneshtorgbank sold
11 their loans, their right to be repaid, to a Dutch company.
12 That's Transaction 3.

13 In Transaction 4, that Dutch company, then issued
14 what Ms. Moeser called bonds, but they're actually called Loan
15 Participation Notes. And those Loan Participation Notes
16 issued by that Dutch company were then distributed or marketed
17 by Credit Suisse International and by Vneshtorgbank. To who?
18 Mostly to hedge funds that specialize in buying the extremely
19 risky debt of emerging market countries.

20 Now, Ms. Moeser said that a bond is just like a
21 stock you can invest in it. Ladies and gentlemen, you
22 wouldn't invest in the debt of an emerging market country.
23 This is something that is for experts because there is a
24 significant risk that countries like that won't pay their
25 debts on time. But if you place your bets right, then the

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1 rewards can be huge because risky countries like that, they
2 have to pay a much higher interest rate in order for any of
3 these institutions to lend them money.

4 Jean Boustani had nothing to do with Credit Suisse
5 and Vneshtorgbank selling their Loan Participation Notes to
6 hedge funds and institutions. He's not a banker, he is a boat
7 salesman. Jean never met any of these hedge funds. Jean
8 never spoke to any of these hedge funds. Jean never e-mailed
9 any of these hedge funds. And when those hedge funds bought
10 the Loan Participation Notes, or LPNs as you're going to hear
11 them called, that money went to Credit Suisse and to
12 Vneshtorgbank. It didn't go to Privinvest and it certainly
13 didn't go to Jean Boustani. Jean had nothing to do with those
14 sales to the investors that were supposedly defrauded.

15 The evidence is also going to show that these Loan
16 Participation Notes had nothing to do with the United States.
17 When one of these hedge funds and institutions buys or is
18 considering an investment like that, they get loan
19 offering -- they get offering documents that describe the
20 investment. You're going to see these offering documents, and
21 you're going to see right on the front page to says that these
22 are what are called "Reg S Securities." They are not issued
23 in the United States and they are not offered to
24 U.S. investors. They are what are called "offshore
25 transactions" that are not reviewed by the U.S. Securities and

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1 Exchange Commission because they're offshore.

2 The evidence will show that the foreign banks that
3 were selling these Loan Participation Notes, Credit Suisse
4 International and Vneshtorgbank, they did not market then in
5 the United States except to hedge fund managers who would be
6 buying them for offshore companies. But let me explain that
7 for a minute.

8 The evidence is going to show that hedge fund
9 managers, they manage money that is held by corporate
10 entities. And in exchange for making investment decisions for
11 those corporate entities that are holding the money, those
12 corporate entities pay the hedge fund managers a huge fee.
13 They pay them two percent of all the money that the corporate
14 entity holds and they also pay them 20 percent of all of the
15 profits that are generated by those corporate entities that
16 are holding the money.

17 Now, sometimes those corporate entities are
18 U.S. entities, but a lot of times those corporate entities are
19 not. They're based in Ireland or the Cayman Islands or
20 someplace else in the world. All of the investments, though,
21 are made by that corporate entity that is holding the money.

22 The evidence is going to show that Credit Suisse and
23 Vneshtorgbank only marketed these LPNs to hedge fund managers
24 who were managing money for offshore corporations. A hedge
25 fund employee may be sitting in the United States, but the

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1 evidence will show that the investor is not in the
2 United States, the investor is the offshore company that is
3 making the purchase.

4 In fact, the very front cover that I mentioned a
5 moment ago of the EMATUM LPN description said in all capital
6 letters and in bold, "The notes may not be offered or sold
7 within the United States, or it or for the account or benefit
8 of United States persons." The evidence will show that these
9 LPN, these Loan Participation Notes, had nothing to do with
10 the United States.

11 Now, during this trial, the prosecution may even try
12 to tell you about a fifth transaction that had even less to do
13 with Jean Boustani. Months and sometimes years after those
14 hedge funds bought the EMATUM LPNs, sometimes those hedge
15 funds made a decision to sell the LPNs to some other hedge
16 fund and in those circumstances, the money went from one hedge
17 fund to another hedge fund.

18 Ladies and gentlemen, every single U.S. investor
19 that you're going to hear about in this case comes into the
20 picture months and sometimes years after Jean had been all
21 done selling Privinvest fishing vessels to EMATUM. Jean had
22 absolutely nothing to do with anyone in this fifth set of
23 transactions. He would have no way of knowing that some hedge
24 fund years later is going to sell its LPN to some other hedge
25 fund and more importantly he would have no reason to care.

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1 There will be no evidence that Jean Boustani was trying to
2 defraud these other hedge funds in this fifth transaction that
3 he didn't know anything about and he had nothing to do with.

4 The evidence is also going to show that these Loan
5 Participation Notes were actually profitable. You would have
6 made 33 percent on your money if you bought an LPN when
7 facially offered and held that investment today. And that's
8 because why have these LPNs grown in value because nothing can
9 change the fact that Mozambique is sitting on some of the
10 world's largest natural gas reserves and these investors
11 believe that they will be able to repay their loans at the
12 very high interest rates that they have to. The prosecution
13 is not going to be able to prove certainly not beyond a
14 reasonable doubt that Jean Boustani had any intent to defraud
15 any, any investor.

16 The third project that the prosecution told you
17 about is a short story. It involved a Mozambican company
18 named MAM. Mozambique contracted with Privinvest to build
19 shipyards in order to maintain the vessels that they had
20 purchased and also to start a shipbuilding industry right
21 there in Mozambique.

22 Transaction 1. Mozambique formed this
23 government-owned company called MAM and that company agreed to
24 pay Privinvest \$500 million to build those shipyards, and to
25 provide training for its citizens.

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1 Transaction 2. MAM borrowed \$500 million from the
2 Russian bank Vneshtorgbank to build the shipyards. That's it.
3 Vneshtorgbank, you're going to learn, brought in a Portuguese
4 bank to lend 100 million of the \$500 million it was loaning
5 out but there is no investors. The evidence will leave you
6 confused as to why you're even hearing anything about this MAM
7 project because there are no investors. VTB, Vneshtorgbank,
8 did not sell any part of its loan to any investor in the
9 United States or anywhere in the world.

10 So the evidence will show that the MAM shipbuilding
11 project could not possibly have been part of a conspiracy to
12 defraud investors because there were no investors. In all of
13 these transactions, Jean Boustani had nothing to do with any
14 investor who bought any part of any of these loans. He didn't
15 lie to any investor. He didn't meet with any investor. He
16 didn't speak or e-mail with any investor. The evidence will
17 show that Jean Boustani did not defraud anyone.

18 The evidence is also going to show to you, ladies
19 and gentlemen, that these sophisticated investors who bought
20 pieces of these loans Ms. Moeser said she talked about
21 tricking investors. You're going to see that these investors
22 were in no way tricked, fooled, or defrauded by the fact that
23 in this large public works project in the country of
24 Mozambique that there were payments to government officials.
25 These investors specialize in the debt of emerging market

OPENING STATEMENT - MR. SCHACHTER

1 countries which include the most corrupt countries in the
2 world. This is what they do every day.

3 The evidence is going to show that each and every
4 investor all these investors were managing literally billions
5 of dollars. These are experts in their field. Knowing all
6 about these countries is how they make the millions of dollars
7 that they do.

8 Now, why did these sophisticated institutions decide
9 to purchase the debt of a country like Mozambique? Because if
10 their calculus paid off, it paid off big. The evidence is
11 going to show that back in 2013 U.S. Treasury Bonds, safe
12 investment, would earn about .6 percent, less than one
13 percent. That's because lending money to the United States
14 Government, which is what you're doing when you buy a savings
15 bond, is risk free. The United States Government has never
16 defaulted on its debts.

17 But the evidence is going to show that investors,
18 these investors, they're not interested in safe investment
19 that is are going to earn .6 percent or even 1 percent or
20 2 percent.

21 The evidence will show that the institutions that
22 bought the EMATUM Loan Participation Notes they wanted riskier
23 investments. Why? Because there are greater returns if they
24 had bet correctly. These Mozambican loans paid 8 or 12 times
25 or more what you could get investing in a U.S. Treasury Bond.

OPENING STATEMENT - MR. SCHACHTER

1 And the evidence will show that one of the risks in
2 these sophisticated emerging market investment experts that
3 they take on that they accept that they know all about is
4 there is significant corruption in these countries.

5 One of the issues in this case is whether that the
6 statements that the prosecution plucked out of the loan
7 agreements did they actually matter to investors? These
8 sophisticated hedge funds were investing in loans for a large
9 public works project in a very corrupt country. And the
10 evidence is going to show that they knew all about that.

11 The evidence is going to show that these investors
12 did not say it themselves, gee, I know that Mozambique is one
13 of the most corrupt countries on earth. But I see here on
14 Page 42 of the 96-page loan agreement between Credit Suisse
15 and the Mozambican company, that Mozambican company promises
16 that there won't be any corruption so I guess I will now
17 invest.

18 The evidence will show that is not what happened.
19 They made these investments with their eyes wide open to the
20 risk of corruption. Why do I say that? There is a public
21 rating called a Corruption Index, and the evidence will show
22 that the corruption rating of Mozambique is available to
23 anyone who wants to look at it. And each and every one of
24 these hedge funds knew exactly how corrupt Mozambique was.
25 If, for a second, any of these sophisticated hedge funds

OPENING STATEMENT - MR. SCHACHTER

1 forgot to look up Mozambique's publicly available corruption
2 rating, they all receive documents before they invested that
3 specifically warn them of the significant risks of investing
4 in Mozambique's debt. You are going to see the written
5 warnings that are provided to these hedge fund managers.
6 You're going to see that the hedge funds were told directly
7 one of the major risks was corruption is prevalent in
8 Mozambique. They were told that Mozambicans reported the
9 highest incidents of bribery in the region. The hedge funds
10 were told that 68 percent of Mozambicans surveyed, reported
11 having paid a bribe in the previous year. That's the
12 information provided to the investors.

13 Ladies and gentlemen, the evidence is going to show
14 that they knew the risks, they assumed the risks, and they
15 bought these Loan Participation Notes knowing about the risks
16 of corruption. They were big boys.

17 In fact, the evidence is going to show that Credit
18 Suisse actually required that these banks and hedge funds that
19 were buying the Loan Participation Notes during the initial
20 offering they actually required them to sign something called
21 a "Big Boy Letter." In those letters, those banks and hedge
22 funds say, We understand that our investment involves a high
23 degree of risk. We are highly sophisticated investors with
24 extensive knowledge and experience in financial and business
25 matters and expertise in assessing credit and all other

OPENING STATEMENT - MR. SCHACHTER

1 relevant risks. We have independently evaluated and conducted
2 in-depth analysis on the merits, risks, and suitability of
3 investing in the Loan Participation Notes and we assume the
4 risks of purchasing these Loan Participation Notes.

5 The evidence is going to show that these were the
6 biggest of big boys. They always knew that there was a
7 significant risks that there could be payments to government
8 officials. They were not tricked. It had nothing to do with
9 why they were investing.

10 Ms. Moeser also said that these investors were
11 somehow defrauded because Privinvest overcharged for the ships
12 and other equipment and training and intellectual property
13 that it sold.

14 The evidence is going to show that they are dead
15 wrong about that. When you consider the entire package that
16 Privinvest provided to the country of Mozambique you are going
17 do see that the prices charged were completely reasonable.

18 THE COURT: And you're going to see that, ladies and
19 gentlemen of the jury, after openings statements are completed
20 and after we actually begin to have evidence which will be
21 after the lunch because I promised you we would have luncheon
22 recess at 12:30. It is now 12:35.

23 Do not talk about the case. And we will resume as
24 promised at 1:45 p.m. Again. At that point, counsel will be
25 completing his opening statement and then he will have what

OPENING STATEMENT - MR. SCHACHTER

1 both the prosecution and defense counsel have referred to
2 which you have not seen yet, which you will, which is
3 evidence.

4 Okay. So we're going to have our nice luncheon
5 recess and return at 1:45 and thank you.

6 (Jury exits courtroom at 12: 37p.m.)

7 THE COURT: You may be seated. The jury has left
8 the courtroom.

9 Do we have any procedural issues to address before
10 we take our luncheon recess?

11 MR. BINI: Your Honor, the Government would ask that
12 you instruct the jury after the opening statements of the
13 defense concludes that ignorance of United States law is
14 absolutely not a defense.

15 THE COURT: I'm going to instruct the jury as to
16 what the law is when this case concludes because I have a bad
17 feeling that both sides are going to perhaps get so close to
18 the line of invading the province of the Court that I will
19 have to morph from the avuncular telephone salesman and
20 sometimes to Lord Vader. So I'm going to tell you folks right
21 now that this is a trial and you're going to be presenting
22 evidence and I look forward to seeing the evidence. And I'm
23 not going to start piecemeal instructing the jury right now
24 because all they're hearing is argument from both sides. And
25 as I've said before, opening statements and closing statements

OPENING STATEMENT - MR. SCHACHTER

1 are just argument, they will get the law from me. But to the
2 extent that counsel invades the province of the Court, they're
3 inviting difficulties that they would perhaps best avoid.

4 Anything else?

5 MR. SCHACHTER: No thank you, your Honor.

6 MR. BINI: No, Your Honor. That's why we were
7 raising it. We thought the defense had started to invade your
8 province, your Honor.

9 THE COURT: I'm very, very protective of my
10 province. I can consider it one of my crown jewels.

11 MR. BINI: Okay, your Honor.

12 THE COURT: Anything else?

13 MR. JACKSON: No thank you, Judge.

14 THE COURT: Thank you very much, everyone.

15 (Luncheon recess taken; 12:40 p.m.)

16 (Continued on the next page.)

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PROCEEDINGS

1 A F T E R N O O N S E S S I O N

2 (2:00 p.m.)

3 THE COURTROOM DEPUTY: All rise. Judge Kuntz
4 presiding.

5 THE COURT: The parties are all present, including
6 the defendant. You may be seated, ladies and gentlemen of the
7 public, and counsel as well.

8 Before we continue with the opening statement of
9 defense counsel, I'm going to have my law clerk give a copy to
10 each side of an under seal submission. The attachments have
11 been marked as Court 1, Court 2, and Court 3.

12 (Court Exhibits 1, 2 & 3, were received in
13 evidence.)

14 THE COURT: I'm going to ask each counsel to review
15 it with their respective clients and then I'm going to ask
16 counsel -- first the government and then defense -- how we
17 should respond seriatim to Court 1, to Court 2, and to
18 Court 3. And, again, the documents are filed under seal. You
19 have copies respectively under seal, and I will take your
20 thoughts after you've had an opportunity to review it and
21 discuss them with your clients.

22 (Pause in proceedings.)

23 THE COURT: Why don't you put on the white noise
24 machine, Mr. Jackson, to help these folks out?

25 (Pause in proceedings.)

PROCEEDINGS

1 THE COURT: Counsel, ready to go back on the record?

2 MR. BINI: Yes, Your Honor.

3 THE COURT: All right. You've had an opportunity to
4 review filed under seal documents, Court's 1, 2, and 3 in
5 evidence under seal. I'll hear first from the government and
6 then from defense counsel. Shall we do them seriatim?

7 MR. BINI: Yes, Your Honor.

8 THE COURT: Or do you want to do them as a group?

9 MR. BINI: Well, I might just start as a group.

10 THE COURT: It's up to you. That's fine. Go ahead.

11 MR. BINI: Your Honor, as to all three of the
12 individuals, these were issues, the length of trial is
13 something that you made very clear during the selection
14 process and raised any potential hardships. So we think that
15 at this point it would be inappropriate to release anyone on
16 the basis of hardship since they had that opportunity to raise
17 it yesterday.

18 We would just also note that, of course, the
19 government would be open if there was some way to accommodate
20 the trial schedule to better -- to make it less onerous on the
21 jurors. The government would certainly be open to that. But
22 our fear is that if three jurors were released right now out
23 of the 16 folks, you'd get 13 more notes indicating that they
24 would -- that this is too long a trial.

25 THE COURT: I'll hear from defense counsel. What's

PROCEEDINGS

1 your view?

2 MR. JACKSON: Your Honor, we share similar concerns.
3 I think we essentially have the same view as the government.

4 THE COURT: All right. Shall we call in the jury to
5 resume the opening statement?

6 MR. JACKSON: Yes. Thank you.

7 THE COURT: Okay.

8 MR. SCHACHTER: Your Honor, should I take the podium
9 now?

10 THE COURT: I think that would be appropriate.

11 MR. SCHACHTER: Thank you, Your Honor.

12 THE COURT: You're very welcome.

13 (Jury enters courtroom.)

14 THE COURT: Thank you, again, ladies and gentlemen
15 of the jury. I appreciate your promptness. I hope you had a
16 nice, enjoyable, and perhaps even relaxing lunch. So please
17 be seated and we're going to continue with the opening by
18 defense counsel. And, again, with respect to both sides,
19 these are just arguments. The evidence is yet to come. I
20 assure you the evidence is coming.

21 So please continue, sir.

22 MR. SCHACHTER: Thank you, Your Honor.

23 THE COURT: Of course.

24 MR. SCHACHTER: Ladies and gentlemen, I want to
25 thank you for your attention. I have only about 15 minutes

OPENING STATEMENT - MR. SCHACHTER

1 left.

2 One of the things --

3 THE COURT: Be careful when you say that. There's a
4 clock up there. But I used say I won't be much longer. But
5 it's up to you, counsel. However you want to roll, that's
6 fine. I'm not giving any advice. I'm just observing. But
7 they've got a clock. So...

8 MR. SCHACHTER: I'm on the clock.

9 THE COURT: So to speak.

10 MR. SCHACHTER: So to speak. The prosecutor, one of
11 the things that she mentioned was that the investors were
12 somehow defrauded because Privinvest overcharged for these
13 ships. A couple of things about that.

14 First, I want to clear that Jean Boustani is a
15 salesman who works at Privinvest. He's not the owner of the
16 company.

17 The other thing I want to note is that the evidence
18 is going to show that that suggestion, that allegation is
19 going to be proven dead wrong. When you consider the full
20 package of ships and equipment and training and intellectual
21 property that Privinvest provided, you're going to see that
22 the charges were completely reasonable, and, in fact, you're
23 going to hear in this case from a retired U.S. Admiral who
24 also worked as a defense executive -- defense industry
25 executive. He's going to talk to you all about valuation.

OPENING STATEMENT - MR. SCHACHTER

1 But really more to the point, the value of the
2 specific boats that Privinvest sold to these companies in
3 Mozambique, is -- we're going to show that's more
4 misdirection. The evidence will show that the investors
5 invested in these loans because they paid a super-high rate of
6 return.

7 The investors aren't buying boats. None of the
8 investors, as they were considering their investments, the
9 evidence will show they didn't ask, "What kind of boats are
10 these?" or "How much do these boats cost to make?" or -- none
11 of the investors asked, "We'd like to speak to Privinvest
12 about these boats so we can learn more about these boats."

13 The reason that they didn't ask is because they
14 weren't investing in boats. They were placing a bet on the
15 country of Mozambique. It was an extremely risky bet. They
16 understood that, but they were making a tactical, strategic
17 decision that, as they analyzed Mozambique, which is now
18 sitting on a huge natural gas reserves, that their bet --
19 their calculus was Mozambique, while risky, was likely to
20 repay its debts. That is the calculus that mattered to the
21 investors, and that's why they placed that particular bet.
22 The value of the boats had nothing to do with it.

23 Now, the prosecutor also told you about former
24 Credit Suisse bankers who have pled guilty and will now be
25 government witnesses. The prosecutor told you that these

OPENING STATEMENT - MR. SCHACHTER

1 bankers were paid money by Privinvest, the company where Jean
2 worked as a salesman.

3 The evidence is going to show that those payments
4 had nothing whatsoever to do with any fraud on any investors.
5 There were payments to three Credit Suisse bankers. The
6 evidence is going to show that Privinvest paid them that money
7 because the first one of them, who you'll be hearing from very
8 soon, a man named Andrew Pearse, he proposed to Privinvest
9 that he would start a new business with Privinvest, and the
10 business that Pearse, the Credit Suisse banker, proposed was
11 that he could help Privinvest make investments and also
12 arrange for financing, loans, so that Privinvest could make
13 similar sales to other countries in Africa and throughout the
14 world.

15 And the evidence is going to show that this was not
16 just a proposal by Mr. Pearse, but he actually did it. He
17 actually formed this new business. He left Credit Suisse and
18 he started that new business, and the vast majority of the
19 payments that you're going to hear about are after he has
20 already started that new business with Privinvest, and that's
21 why those payments were made.

22 The second Credit Suisse banker that you're going to
23 hear about, who is also a government witness, is a man named
24 Surjan Singh. The evidence is going to show that Pearse told
25 Privinvest that it needed to pay several million dollars to

OPENING STATEMENT - MR. SCHACHTER

1 Surjan Singh, who is extremely well compensated at Credit
2 Suisse, in order to persuade him to leave Credit Suisse with
3 him and join this new business that you're going to hear
4 about. It's called Palomar. And you're going to hear that,
5 in fact, Surjan Singh was involved in forming this new
6 business, and that's why he received that money.

7 The third Credit Suisse banker, who is now a
8 government witness, is a woman named Detelina Subeva. Now,
9 the prosecutor said in her opening statement that payments to
10 Credit Suisse bankers were to get them to approve the loans.
11 The evidence is going to show that that is not true.

12 Mr. Pearse paid this third Credit Suisse banker, Detelina
13 Subeva, \$2.2 million, not because of any fraud. He gave her
14 this money, the evidence will show, because he was having an
15 affair with her since she joined Credit Suisse as a very new,
16 young banker on his team and he wanted her, too, to leave
17 Credit Suisse to join his new venture, Palomar, so they could
18 be together.

19 These payments, you will learn, had absolutely
20 nothing to do with the fraud of investors. In fact, Mr. Singh
21 and Ms. Subeva, they were charged, just like Jean, with
22 defrauding investors, and you are going to hear that they pled
23 not guilty to defrauding investors. They pled guilty only to
24 money laundering --

25 MR. BINI: Objection, Your Honor.

OPENING STATEMENT - MR. SCHACHTER

1 THE COURT: It's just argument. The witnesses are
2 going to be here. There is going to be cross-examination.
3 There's going to be a trial. We'll get there. So let him
4 argue and then we'll have the trial on the evidence.
5 Overruled.

6 Go ahead.

7 MR. SCHACHTER: You're going to hear Mr. Singh and
8 Ms. Subeva who pled guilty only to money laundering. You're
9 going to hear that their money laundering had absolutely
10 nothing to do with Jean Boustani.

11 Mr. Pearse, he did plead guilty to conspiracy to
12 commit wire fraud, but the evidence is going to show that he
13 only cut that deal to become a government witness after seeing
14 Jean Boustani get arrested in another country, forcibly taken
15 to the United States, and Mr. Pearse only pled guilty after he
16 saw him incarcerated at the Metropolitan Detention Center in
17 Brooklyn where he resides today.

18 And Mr. Pearse only took that deal after he was
19 offered the sweetest of sweetheart deals. You're going to
20 learn that Mr. Pearse faced 80 years in prison. In exchange
21 for agreeing to testify as a government witness, the
22 prosecution let him plead guilty to one count of the
23 four-count indictment that was filed against him. He pled
24 guilty to that one count and not guilty to the others.

25 And you're going to learn that Mr. Pearse is

OPENING STATEMENT - MR. SCHACHTER

1 planning on never spending a day in jail. One of the reasons
2 that he became a government witness is that, while
3 Mr. Boustani is incarcerated thousands of miles from his
4 family --

5 MR. BINI: Objection.

6 THE COURT: Look, he says that Mr. Pearse is hoping
7 to never spend a day in jail. I'll be the sentencing judge.
8 I'm hoping for 40 acres and a mule, you know. Maybe you get
9 it; maybe you don't. Okay? I mean, really, counsel, you are
10 starting to open some doors that you may not wish to have
11 opened.

12 Just so the record is clear, when someone pleads
13 guilty in this court or in any federal court, they're a
14 cooperator, as you will hear from both sides, it is the judge
15 who determines what the sentence is. He may hope never to
16 spend a day in jail, just like I'm hoping for my 40 acres and
17 a mule. Okay?

18 So why don't you move on and complete your opening
19 argument and not talk about the sentence that this judge will
20 impose on people who have pled guilty. Because you don't know
21 what this judge is going to do.

22 MR. SCHACHTER: Yes, Your Honor.

23 When you listen to Mr. Pearse's testimony, which is
24 going to come very soon --

25 THE COURT: I hope so.

OPENING STATEMENT - MR. SCHACHTER

1 MR. SCHACHTER: -- you're going to see that it's not
2 going to make any sense. Mr. Pearse says that Privinvest paid
3 him money because he tried to get Credit Suisse to reduce
4 something called a subvention fee that Privinvest was going to
5 pay Credit Suisse. And you're going to learn that a
6 subvention fee is a completely standard term in a loan where
7 the money is going to a contractor, and more importantly,
8 you're going to learn this subvention fee had absolutely
9 nothing to do with defrauding investors.

10 And none of these cooperating witnesses, not
11 Mr. Pearse, not Mr. Singh, not Ms. Subeva, not a single one
12 are going to say that Jean Boustani ever met with an investor,
13 ever emailed an investor, or spoke to a single investor.
14 There will be no evidence that Jean Boustani defrauded any
15 investors.

16 The prosecution has also accused Jean of one
17 additional supposed misrepresentation and, again, the evidence
18 is going to show that he's completely innocent of that charge.

19 In 2016, Mozambique asked investors if they could
20 restructure the EMATUM loan participation notes, and it
21 proposed that these investors who held the LPNs exchange them
22 for what are called Eurobonds.

23 The prosecutor told you that Mozambique, certain of
24 the banks, met with hedge funds in New York and also in London
25 to discuss this Eurobond proposal. Jean Boustani, you're

OPENING STATEMENT - MR. SCHACHTER

1 going to learn, was not there. He's never been to this
2 country. The prosecution has charged that investors were
3 misled because Mozambique failed to accurately disclose its
4 national debt, and the evidence will show the prosecution is
5 completely wrong about that and, in fact, it appears that
6 Mozambique did accurately disclose its national debt.

7 More importantly, the evidence is going to show that
8 Jean Boustani had nothing to do with how the Republic of
9 Mozambique discloses its national debt. It was drafted --
10 that disclosure was drafted by bankers, lawyers, and officials
11 in Mozambique. When it came time to figure out how they were
12 going to draft this legal disclosure about this Eurobond
13 exchange, Credit Suisse was not turning to a boat salesman.
14 The evidence is going show he did nothing wrong with respect
15 to this Eurobond exchange.

16 Now, ladies and gentlemen, this going to be a long
17 trial and the subject matter is going to be confusing and
18 detailed. Sometimes it may be hard to figure out exactly why
19 certain pieces of evidence are important or how they fit in.
20 We are going to ask you to avoid misdirection and stay
21 focused.

22 The prosecution is going to try to do just what
23 David Copperfield did to the people who were looking at the
24 Statue of Liberty. They are going to try to distract you from
25 the fact that all of their evidence is about payments to

OPENING STATEMENT - MR. SCHACHTER

1 government officials on the other side of the world. It
2 doesn't come close to proving the charges in this case, fraud
3 and money laundering. They are going to try to tilt the
4 direction of this jury box to make you lose focus and make
5 Jean's liberty disappear.

6 We are asking you to stay focused on the issues that
7 you are going to need to decide. Nobody is asking you to like
8 corruption, but that is not what Jean Boustani is charged
9 with. What we are asking you to do is follow closely the
10 instructions on the law that Judge Kuntz will give you at the
11 end of this case. That will tell you -- explain to you what
12 the prosecution actually has to prove to you beyond a
13 reasonable doubt in order to prove the specific crimes that
14 Jean is charged with.

15 As you hear the witnesses and as you review the
16 documents, ask yourself: Does this evidence prove to you
17 beyond a reasonable doubt that Jean wanted to defraud
18 investors? Does this evidence prove to you beyond a
19 reasonable doubt that Jean intended to engage in money
20 laundering?

21 If you reject the misdirection, if you stay focused
22 on the issues that you need to decide, if you stay focused on
23 the specific crimes that Jean is charged with, you will render
24 a verdict that is fair and just and you will find Jean not
25 guilty of these crimes and send him back home to his family.

PEARSE - DIRECT - BINI

1 I thank you in advance for your time, your
2 attention, and your service.

3 THE COURT: And now, ladies and gentlemen of the
4 jury, that you've had argument, now you're going to get some
5 evidence. Okay.

6 Government, please call your first witness.

7 MR. BINI: The government calls Andrew Pearse to
8 testify.

9 THE COURT: Please have Mr. Pearse come forward to
10 be sworn.

11 THE COURTROOM DEPUTY: Sir, please come forward.
12 Raise your right hand. I'll swear you in.

13 (Witness sworn.)

14 **ANDREW PEARSE**, called as a witness, having been first duly
15 sworn/affirmed, was examined and testified as follows:

16 THE WITNESS: I do.

17 THE COURT: Please be seated, Mr. Pearse. You'll
18 see there is a microphone in front of you. It will swivel to
19 you as long as the green light is on. And it looks like a
20 snake, but it won't bite you. So please state and spell your
21 name and then counsel will inquire.

22 THE WITNESS: My name is Andrew Pearse.

23 THE COURT: Spell it, please.

24 THE WITNESS: A-N-D-R-E-W P-E-A-R-S-E.

25 THE COURT: Thank you.

PEARSE - DIRECT - BINI

1 You may inquire, counsel.

2 MR. BINI: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MR. BINI:

5 Q Mr. Pearse, from 2002 to September of 2013, what did you
6 do for a living?

7 A I was an investment banker working for Credit Suisse in
8 London.

9 Q What is Credit Suisse?

10 A Credit Suisse is a Swiss bank that has an international
11 investment bank as part of it.

12 Q Where were you working for Credit Suisse?

13 A I worked in the London office of Credit Suisse, the
14 investment bank.

15 Q You said that it was an international investment bank?

16 A Yes, sir, that's correct.

17 Q What is an international investment bank?

18 A An investment bank is unlike a normal bank in that its
19 clients are companies and governments, and it does two primary
20 functions: One is to advise those clients in relation to
21 their activities, mergers and acquisitions, for example.

22 And on the other side, it raises capital for those
23 clients. It has activities in the bond market. It may trade
24 as well with foreign exchange or interest rates, but it
25 doesn't accept deposits, that it's unlike a normal bank in

PEARSE - DIRECT - BINI

1 that sense.

2 Q What was your position at Credit Suisse in the London
3 office?

4 A By the time I left, I was a managing director at Credit
5 Suisse.

6 Q Were you in a specific group?

7 A Yes. I headed up a group called the global finance
8 group.

9 Q What did the global finance group do?

10 A Its role was to provide loans to clients of Credit Suisse
11 in emerging markets.

12 Q What's an emerging market?

13 A An emerging market is a market in a country which is less
14 developed than western Europe and the United States, for
15 example.

16 Q Is Mozambique an emerging market?

17 A Yes. All of Africa is an emerging market.

18 Q Did there come a time that you left Credit Suisse?

19 A Yes, I did.

20 Q When was that Mr. Pearse?

21 A I left Credit Suisse in September of 2013.

22 Q Where did you go in September of 2013 for work?

23 A I left to establish a business called Palomar Capital
24 Advisors.

25 THE COURT: Would you spell that for the reporter,

PEARSE - DIRECT - BINI

1 please.

2 THE WITNESS: Yes, Your Honor. P-A-L-O-M-A-R.

3 Capital is C-A-P-I-T-A-L. Advisors is A-D-V-I-S-O-R-S.

4 Q What did you do at Palomar Capital Advisors, Mr. Pearse?

5 A I was the managing director of that business. The
6 business itself had two elements. The first was to act as
7 financial advisor to companies that were looking to raise
8 money, and the second part was to act as an investment fund.

9 Q Are you familiar with a company called Privinvest?

10 A Yes, sir, I am.

11 Q Did Palomar do anything for Privinvest?

12 A Privinvest was the key client of Palomar. It was also
13 one of the owners or co-owners of Palomar.

14 Q Mr. Pearse, did you plead guilty to a crime in connection
15 with your employment at Credit Suisse and Palomar?

16 A Yes, sir, I did.

17 Q What crime?

18 A Wire fraud conspiracy.

19 Q Did you also admit to conduct of another crime?

20 A Yes, I did.

21 Q What other crime?

22 A Conspiracy to commit money laundering.

23 Q Mr. Pearse, what did you do to commit wire fraud
24 conspiracy?

25 A Whilst I was working at Credit Suisse and subsequently, I

PEARSE - DIRECT - BINI

1 received millions of dollars in kickbacks and unlawful
2 payments for my assistance in arranging three financing for
3 projects in Mozambique --

4 Q How much --

5 THE COURT: Did you finish your answer?

6 THE WITNESS: I hadn't finished.

7 THE COURT: Why don't you go ahead and finish your
8 answer.

9 THE WITNESS: I'm sorry, sir. Thank you.

10 Whilst -- those projects were -- or the financings
11 for those projects were sold to international investors and
12 those investors were not made aware of the fact that I had
13 received kickbacks and unlawful payments in relation to them.

14 Q How much were the loans in the Mozambican companies?

15 A In total, just over \$2 billion.

16 Q Did you commit that crime alone or with others?

17 A With others.

18 Q Do you recognize anyone in the courtroom today from your
19 time at Credit Suisse and Palomar who was involved in the
20 criminal conduct you described?

21 A Yes, I do.

22 Q Can you point that individual out and describe an article
23 of clothing they're wearing?

24 A He's wearing a blue/gray suit and blue shirt.

25 MR. BINI: Indicating the defendant for the record,

PEARSE - DIRECT - BINI

1 Your Honor.

2 THE COURT: The record will so reflect the witness
3 has identified the defendant, Jean Boustani.

4 Q What role, if any, did the defendant, Jean Boustani, play
5 in your criminal conduct?

6 A Mr. Boustani was the person that introduced the first
7 project to me whilst I was at Credit Suisse. He was an
8 employee of Privinvest. He was the contractor for each of the
9 projects. He was the person who had relationships with the
10 Mozambican government officials that were involved in
11 approving the project, and he was the person that helped to
12 design the project and to maximize the size of the loans that
13 were used to finance the project.

14 Q What were the loans that were involved in the criminal
15 conduct?

16 A There were three loans that were made to three project
17 companies in Mozambique.

18 Q What were their names?

19 A The first one was called Proindicus.

20 THE COURT: Would you spell that for the reporter,
21 please.

22 THE WITNESS: Yes, Your Honor. P-R-O-I-N-D-I-C-U-S.
23 The second project was called EMATUM.

24 THE COURT: Would you spell that for the reporter.

25 THE WITNESS: E-M-A-T-U-M.

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1 And the third project was called Mozambique Asset
2 Management, otherwise known as MAM, M-A-M.

3 BY MR. BINI:

4 Q What were the loans for, starting with Proindicus?

5 A Proindicus was a project to provide a coast guard system
6 for Mozambique. It was designed to protect their exclusive
7 economic zone.

8 Q What's exclusive economic zone? What does that mean?

9 A It's a part of the sea that goes out 200 miles from the
10 coast of every country in which that country's coastline it
11 abuts has the right to exploit the natural resources in the
12 sea for that 200-mile radius.

13 Q What about the second loan, EMATUM? What was that for?

14 A The EMATUM was to build a tuna fishing fleet.

15 Q What was MAM for?

16 A MAM was for two things: Firstly, to build shipyards in
17 Mozambique and, secondly, to provide maintenance for the
18 vessels that had been supplied to EMATUM and Proindicus.

19 Q What relationship, if any, did Privinvest and the
20 defendant have to these loans, Proindicus, EMATUM, and MAM?

21 A In all cases, Privinvest was the company that was to
22 provide the goods and services for each of the projects to
23 those companies.

24 Q And what relationship did EMATUM, MAM, and Proindicus
25 have to the Mozambican government, if any?

PEARSE - DIRECT - BINI

1 A I'm sorry. Can you repeat the question, please?

2 THE COURT: What relationship did they have to the
3 Mozambican government, if any, including MAM?

4 THE WITNESS: All three companies were owned
5 indirectly by the government of Mozambique.

6 BY MR. BINI:

7 Q You said that there were three loans totaling \$2 billion.
8 Who was the borrower for the loans?

9 A The borrower in each case was the relevant company, the
10 Mozambican company.

11 Q Who were the lenders for the \$2 billion?

12 A The lenders were Credit Suisse and a Russian bank called
13 VTB.

14 Q Who were the contractors for the projects?

15 A The contractors were Privinvest or a subsidiary of
16 Privinvest.

17 Q Did the money go to the Mozambican companies directly,
18 Mr. Pearse?

19 A No, it did not.

20 Q Where did the \$2 billion go?

21 A The loan proceeds were paid directly to Privinvest net of
22 the fees that were paid to banks.

23 Q Why was it paid directly to Privinvest?

24 A The relevant company, Mozambican company had signed an
25 agreement to buy certain goods and services from Privinvest,

PEARSE - DIRECT - BINI

1 and under the terms of that contract it was required to pay
2 Privinvest an amount of money upfront which is equal to the
3 amount that was borrowed.

4 Q How long was the construction period for these projects
5 for the Mozambican companies?

6 A Between one and two years.

7 Q Were the loan funds paid to Privinvest as the contractor
8 in installments or all at once?

9 A No. The loan proceeds were paid all at once at the
10 beginning of the project.

11 Q In your experience, was it typical for the contractor to
12 be paid all at once?

13 A No. In my experience that was not typical.

14 Q Why was that not typical in your experience?

15 A In my experience for a project which was to be provided
16 over a number of years, it would be typical for the contractor
17 to be paid in installments over that time period as the
18 contractor delivered the goods and services under the
19 contract.

20 Q Were outside investors involved in the three loans at
21 all?

22 A Yes, they were.

23 Q In your experience, do international investment banks use
24 outside investors?

25 A Yes, it's the business model of an investment bank to

PEARSE - DIRECT - BINI

1 take risk, make a loan, and to transfer that risk of that loan
2 to third parties as quickly as possible and to retain the fees
3 in the middle.

4 Q How did the banks involve international investors in
5 these loans?

6 A In the case of Proindicus, the original lending banks
7 transferred parts of the loan to other banks' investors or --
8 and/or insureds, received insurance policies to cover the risk
9 from the international insurance market.

10 In relation to EMATUM, the loan was converted into
11 bonds and sold by the lending banks to investors in the
12 international bond market.

13 Q Did there come a time that the original EMATUM bond was
14 reissued as a national bond?

15 A Yes. In early 2016, the government of Mozambique
16 exchanged the EMATUM bond into a bond -- a new bond that was
17 issued directly by the Mozambican government.

18 Q Where were the investors in the loans and in that bond
19 that was exchanged in 2016?

20 A The investors in all cases were international banks and
21 investors that were clients of the relevant bank.

22 Q Did that include investors in the United States?

23 A Yes, sir, it did.

24 Q You testified a moment ago about the crime you pled
25 guilty to committing in connection with these loans. What

PEARSE - DIRECT - BINI

1 crime was that again?

2 A Conspiracy to commit wire fraud.

3 Q How were the investors affected by the criminal conduct?

4 A The investors made a decision to invest without being
5 aware of the fact that I had --

6 MR. SCHACHTER: Objection.

7 THE COURT: Overruled.

8 Go ahead. Complete your answer.

9 THE WITNESS: Can I start again?

10 THE COURT: Yes.

11 THE WITNESS: The investors invested in the loans
12 and bonds without being aware that I had received kickbacks
13 and unlawful payments in relation to approving those loans.

14 BY MR. BINI:

15 Q What did you do that defrauded loan and bond investors?

16 A I did two things: I received unlawful payments and
17 kickbacks in relation to those. I also helped to ensure that
18 the bank's internal policies were avoided by providing false
19 statements in relation to the diligence that the banks conduct
20 in order to decide whether to make a loan, and that
21 information was withheld from the investors.

22 Q What's diligence?

23 A When a bank is deciding whether to make a loan, it
24 conducts a process to make sure it understands the risk that
25 it is taking, the project that it is providing money to, and

PEARSE - DIRECT - BINI

1 there's a long process to -- question and answers and
2 background checks to ensure that the bank is making the
3 correct decision before it makes a loan.

4 Q Did you assist to get these loans approved?

5 A Yes. Whilst at Credit Suisse, I was in charge of the
6 group that made the first loans to Proindicus. And whilst I
7 was still an employee of Credit Suisse, I helped to ensure
8 that the diligence for the EMATUM loan was conducted in a way
9 that I knew the bank would then accept to make the loan.

10 Q Were you paid for that assistance?

11 A Yes, sir, I was.

12 Q By whom?

13 A By Privinvest.

14 Q You testified a moment ago that the defendant was
15 involved in these loans. Where did the defendant work?

16 A He worked for Privinvest.

17 Q What was his position at Privinvest?

18 A He was the person who was responsible for developing
19 their business in Africa.

20 Q What role did he play in the loans?

21 A He was person that introduced the project to Credit
22 Suisse, the first project Proindicus. He negotiated the terms
23 of the loans on behalf of the Mozambican entity that became
24 the borrower, and he was the person that negotiated and
25 procured the guaranty from the minister of finance in relation

PEARSE - DIRECT - BINI

1 to the three loans.

2 Q The minister of finance where?

3 A Mozambique.

4 Q Who was the minister of finance at the time of the
5 original three loans?

6 A Manuel Chang.

7 THE COURT: Would you spell that for the reporter.

8 THE WITNESS: Yes, Your Honor. M-A-N-U-E-L. Second
9 name is C-H-A-N-G.

10 Q Who was responsible for selling the loans and bonds to
11 investors?

12 A Credit Suisse and VTB.

13 Q Were you involved in that process, Mr. Pearse?

14 A Whilst I was still working at Credit Suisse, the person
15 who was responsible for selling the Proindicus loan worked for
16 me.

17 Q Was the defendant involved in selling the loans and
18 bonds?

19 A No, he was not.

20 Q Did you ever discuss the sale of the loans and bonds with
21 the defendant?

22 A Yes.

23 Q Why?

24 A The sale of the loans and the sale of the bonds was
25 designed to maximize the size of the loans that could be

PEARSE - DIRECT - BINI

1 provided for the projects, and it was important to the
2 defendant and to myself that we maximize the size of the loans
3 and I knew that the only way to do that was to involve
4 third-party investors.

5 Q By "third-party investors," do you mean the international
6 investors who purchased interests in the loans and the bonds?

7 A I mean international banks and investors who, yes,
8 ultimately acquired parts of the loans and the bonds.

9 Q Why was maximizing financing important to you and the
10 defendant?

11 A I can only answer that in relation to myself. But for
12 myself it was because I was paid a percentage of the amount of
13 the financing that we raised. So I was economically
14 incentivized to maximize the size of the loan.

15 Q Who was paying you a percentage of the amounts raised?

16 A Privinvest.

17 Q Was selling the loans and bonds important to the criminal
18 scheme you've been describing?

19 A Yes. Because in the absence of transferring or selling
20 the loans and selling the bonds, the size of the loans would
21 have been significantly smaller.

22 Q Would you have been able to raise \$2 billion if you had
23 not sold the loans and bonds to others?

24 A Not in my opinion, no.

25 Q You said that you received kickbacks and unlawful

PEARSE - DIRECT - BINI

1 payments. How much did you receive in kickbacks and unlawful
2 payments, Mr. Pearse?

3 A I received \$45 million.

4 Q Who paid the \$45 million in kickbacks and unlawful
5 payments to you, Mr. Pearse?

6 A Privinvest.

7 Q Who, if anyone, negotiated the payment of \$45 million in
8 kickbacks and unlawful payments to you?

9 A Jean Boustani.

10 Q Who, if anyone, determined how much money you would
11 receive for your participation in this scheme?

12 A Jean Boustani and his boss, Iskandar Safa.

13 THE COURT: Would you spell that, if you could,
14 please.

15 THE WITNESS: Yes, Your Honor. I-S-K-A-N-D-A-R.
16 Last name is S-A-F-A.

17 Q Where did you receive the money that was for the
18 kickbacks and the unlawful payments from Privinvest?

19 A I received all of the money into a bank account I opened
20 in the United Arab Emirates.

21 Q Where is the United Arab Emirates?

22 A It is a country in the Middle East across from Iran.

23 Q Why was that account in the United Arab Emirates?

24 A I opened that account in order to receive the payments
25 from Privinvest and to conceal it from my family.

PEARSE - DIRECT - BINI

1 Q Where did Privinvest -- what does Privinvest do?

2 A Privinvest is a shipbuilder.

3 Q Where does it build ships?

4 A To the best of my knowledge, it builds ships in the
5 United Arab Emirates, France, and Germany.

6 Q I want to ask you about your bank account application in
7 the United Arab Emirates. Was your bank account application
8 truthful?

9 A No, sir, it was not.

10 Q How was your bank application false?

11 A It was false as to whether I was a resident of the United
12 Arab Emirates. It was false as to my employer and the nature
13 of my employment. It was false as to the salary I was
14 receiving for that employment.

15 Q What specifically did it say that was false?

16 A I described my employment as a tube welder.

17 THE COURT: As a what? I'm sorry.

18 THE WITNESS: Sorry, Your Honor. Tube welder.

19 THE COURT: Would you spell that?

20 THE WITNESS: T-U-B-E. Welder is W-E-L-D-E-R.

21 THE COURT: What is a tube welder?

22 THE WITNESS: I believe, Your Honor, it's somebody
23 who is a construction site welder.

24 THE COURT: Go ahead.

25 BY MR. BINI:

PEARSE - DIRECT - BINI

1 Q Why did you describe your employment as a tube welder on
2 this bank account application?

3 A In order to open a bank account in United Arab Emirates,
4 you're required to be a resident of that country, and my
5 residency permit described my employment as a tube welder.

6 Q Did anyone help you get that residency permit?

7 A Yes.

8 Q Who?

9 A Jean Boustani.

10 Q Did anyone help you set up this bank account with all
11 this false information?

12 A Yes.

13 Q Who?

14 A Jean Boustani and Najib Allam.

15 Q Who is Najib Allam?

16 A He is the CFO, the chief financial officer, of
17 Privinvest.

18 THE COURT: Would you spell that name, please.

19 THE WITNESS: Najib Allam, Your Honor?

20 THE COURT: Yes, sir.

21 THE WITNESS: N-A-J-I-B. Second name, A-L-L-A-M.

22 THE COURT: Go ahead.

23 BY MR. BINI:

24 Q You said, Mr. Pearse, that you also admitted to money
25 laundering conspiracy as part of your criminal conduct. What

PEARSE - DIRECT - BINI

1 did you do that was money laundering?

2 A I received millions of dollars in kickbacks and unlawful
3 payments into my bank accounts in the United Arab Emirates. I
4 used those funds to pay another banker who was involved in the
5 scheme, and I used that account to conceal the fact that those
6 were the proceeds of a crime.

7 Q Were you and the defendant the only people involved in
8 this criminal conduct?

9 A No, sir, we were not.

10 Q Who else was involved?

11 A There were a number of parties from the banks, from the
12 Mozambican government, and from Privinvest.

13 Q You mentioned bankers. Other than you, who were the main
14 bankers involved in the criminal conduct?

15 A From Credit Suisse, the bankers were myself, Surjan
16 Singh.

17 THE COURT: Spell it, please.

18 THE WITNESS: S-U-R-J-A-N. Second name, S-I-N-G-H.
19 Detelina Subeva.

20 THE COURT: Spell it, please.

21 THE WITNESS: D-E-T-E-L-I-N-A. Second name,
22 S-U-B-E-V-A.

23 Adel Afiouni.

24 THE COURT: Spell it, please.

25 THE WITNESS: A-D-E-L. Second name, A-F-I-O-U-N-I.

PEARSE - DIRECT - BINI

1 Said Freiha.

2 THE COURT: Spell it, please.

3 THE WITNESS: S-A-I-D. Second name, F-R-E-I-H-A.

4 Q What role did the bankers you've just listed play in the
5 criminal conduct?

6 A They all played a role in procuring that the bank made
7 the loans that it made in relation to Proindicus and EMATUM.

8 Q Were the bankers secretly paid money?

9 A Yes, sir, they were.

10 Q By who or whom?

11 A By Privinvest.

12 (Continued on the next page.)

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A. Pearse - Direct/Mr. Bini

1 EXAMINATION BY

2 MR. BINI:

3 (Continuing.)

4 Q Did you discuss this with the defendant?

5 A Yes, I did.

6 Q Did the defendant know that other bankers at Credit
7 Suisse were involved in the criminal conduct?

8 A Yes, he did.

9 Q How?

10 A In the case of Surjan Singh, I negotiated a payment to
11 Surjan Singh on behalf of the defendant and Privinvest of,
12 approximately, \$4 million for Surjan help in procuring part of
13 the EMATUM loan.

14 Q What about the other bankers?

15 A In relation to Detelina Subeva, I transferred to her
16 \$2.2 million.

17 Q What about the two other bankers you mentioned?

18 A Adel Afiouni and Said Freiha were the two bankers who
19 introduced Privinvest to Credit Suisse. They were
20 relationship bankers. They provided the bank with false
21 information as to Privinvest which helped to ensure that
22 Privinvest was taken on board as a client of Credit Suisse.
23 And the defendant told me that Adel Afiouni and Said Freiha
24 were silent partners in a company which Privinvest bought in
25 an amount of money in excess of \$10 million.

A. Pearse - Direct/Mr. Bini

1 Q The defendant said he bought a company with those bankers
2 for more than \$10 million?

3 A That's correct. He said Privinvest bought a company.

4 Q Did you think that the number was high?

5 A Yes. The company itself was a company which was very
6 similar to Palomar, provided the same kind of services. So it
7 seemed to me strange that Privinvest would need another
8 company that did the same thing and the valuation seemed very
9 high.

10 Q Were those bankers still working at Credit Suisse when he
11 described this conduct?

12 A Yes, they were.

13 Q In your time at Credit Suisse, are you familiar with
14 whether you're allowed to have another company from which you
15 receive millions of dollars?

16 A No, you're not. And that is why the defendant described
17 them as silent partners rather than being officially
18 shareholders of the company.

19 Q What about bankers at other banks? Did you learn
20 anything from the defendant regarding their involvement in the
21 criminal conduct?

22 A Yes, I did.

23 Q What, if anything, did the defendant tell you?

24 A The defendant told me that Privinvest had paid Makram
25 Abboud.

A. Pearse - Direct/Mr. Bini

1 Q Can you spell that.

2 A M-a-k-r-a-m. A-b-b-o-u-d. He was the most senior banker
3 involved in the projects from VTB, \$2 million.

4 Q What did the defendant say to you about that?

5 A He told me -- he discussed with me how Makram Abboud had
6 been paid half of the amount that Surjan Singh had been paid
7 at Credit Suisse for doing twice as much work.

8 Q What was the occasion for having that conversation?

9 A At the time in 2015, it coincided with the defendant
10 being extremely disappointed that Credit Suisse had been
11 unable to lend more money for the first project and he was
12 disappointed with Surjan Singh for not being able to procure
13 more money to be loaned from Credit Suisse.

14 Q You mentioned that Mozambican officials were involved in
15 the criminal conduct. Who were the Mozambican officials who
16 were involved that you know of?

17 A Ones that I'm more aware were Antonio Do Rosario.

18 Q Who is Antonio Do Rosario?

19 A He was the chief executive and chairman of each of the
20 three Mozambican project companies.

21 Q Did he have another government position?

22 A He was an officer in the Mozambican Secret Service.

23 Q What was his role in the criminal conduct?

24 A He was the CEO, chief executive officer, the person in
25 the management of each of the companies responsible for each

A. Pearse - Direct/Mr. Bini

1 of the three projects.

2 Q What other Mozambican officials, to your knowledge, were
3 involved in the criminal conduct?

4 A Isaltina Lucas.

5 Q Who was Isaltina Lucas?

6 A She, at the time, was the national director of treasury
7 which is a department within the ministry of finance in
8 Mozambique.

9 Q What was her role in the conduct?

10 A She was the person who approved the projects to be
11 ultimately guaranteed by the minister of finance.

12 Q What other Mozambican officials were involved?

13 A Adriano Maleiane.

14 Q Who is Adriano Maleiane?

15 A He is the current minister of finance of Mozambique.

16 Q What was his role in the conduct?

17 A He was the minister of finance who met with investors in
18 2016 when Mozambique issued its Sovereign Bond and he failed
19 to disclose to those investors the existence of loans to
20 Proindicus and MAM and the fact that those loans had not been
21 disclosed to the IMF.

22 Q What's the IMF?

23 A The IMF is an acronym to stands for the International
24 Monetary Fund.

25 Q What role, if any, do they have in Mozambique?

A. Pearse - Direct/Mr. Bini

1 A As part of their role, they provide support and financial
2 assistance to poor countries.

3 Q Are you familiar with someone named Manuel Chang?

4 A Yes, I am.

5 Q Who is he?

6 A He was the minister of finance for Mozambique at the time
7 that the three loans were made in 2013 and 2014.

8 Q Did he have any role with respect to those loans?

9 A Yes, he was the minister of finance who signed the
10 guarantees from the Government of Mozambique for each of the
11 three loans.

12 Q Were there any other Mozambican government officials or
13 their relatives who you dealt with during your criminal
14 conduct?

15 A Yes.

16 Q Who?

17 A Armando Igambi Guebuza.

18 Q Who is Armando Igambi Guebuza?

19 A He is the son of the then-President of Mozambique.

20 Q Who was the President of Mozambique during the
21 2013-2014time period?

22 A Armando Guebuza.

23 Q This individual was his son?

24 A They shared the same name.

25 Q What role did the son of the President of Mozambique play

A. Pearse - Direct/Mr. Bini

1 in the criminal conduct?

2 A He introduced the defendant to his father and to the
3 ministers in the Mozambican government who were necessary for
4 the project to succeed.

5 Q Did the defendant ever comment further to you regarding
6 the son of the president's role in the fraud?

7 A Yes.

8 Q What did he say to you?

9 A He told me that Privinvest had paid the son \$50 million.

10 Q How did the defendant have occasion to tell you that he
11 had paid \$50 million to the son of the President of
12 Mozambique?

13 A In 2015, the defendant told me a story about Armando
14 Guebuza who, at this point in time, had been living for almost
15 a year on the estate of Iskandar Safa in the south of France.
16 And the defendant told me that Armando Guebuza had asked
17 Privinvest to buy a house for himself and a prostitute that
18 Armando had fallen in love with that had cost approximately 11
19 million Euros.

20 Q And 11 million Euro house, how much is that in
21 U.S. Dollars?

22 A At the time it was approximately 14 or 15 million U.S.
23 Dollars.

24 Q Did the defendant comment on whether he had purchased
25 this 14 million house at the son of the president's request?

A. Pearse - Direct/Mr. Bini

1 A The defendant told me they convinced Armando not to buy
2 the house with the prostitute.

3 Q What, if anything else, did the defendant say?

4 A I expressed surprise at the amount of money that the
5 house was supposed to cost, particularly, given the nature of
6 the relationship. And the defendant told me it was nothing,
7 they paid him 50 which I took to mean 50 million.

8 Q Did the defendant tell you anything else about money
9 going to the son of the President of Mozambique?

10 A Yes, sir. The defendant told me of how Armando Guebuza
11 had asked Privinvest for a hundred thousand dollars to take
12 with him from the south of France back to Mozambique. And he
13 wanted to take it in a bag with him on the plane.

14 Q Did you --

15 Well, what happened? Did you learn of what happened
16 to the son of the president?

17 A Yes. The money was provided to Armando. And when
18 transiting through Dubai, he was stopped by the authorities
19 for having too much money. And the defendant assisted in
20 helping Armando clear the issue with the authorities in Dubai.

21 Q How do you know that?

22 A The defendant told me.

23 Q Did you ever meet someone named Teofilo Nhangumele?

24 A Yes, I did.

25 Q Who was that?

A. Pearse - Direct/Mr. Bini

1 A He was the person I met in January of 2013 the first time
2 I went to Mozambique who was described as the representative
3 of the Mozambican government who was in charge of the
4 Proindicus project.

5 Q Who described him as that?

6 A He did and the defendant did.

7 Q Did the defendant ever make any comments regarding
8 Teofilo Nhangumele's involvement in the Proindicus loans?

9 A At one stage, the defendant complained about having to
10 pay Teofilo despite the fact that from February 2013 onwards,
11 Teofilo had not been involved in the Proindicus project.

12 Q Did the defendant tell you how much he paid Teofilo
13 Nhangumele?

14 A No, sir, he did not.

15 Q You mentioned Privinvest personnel being involved in the
16 conduct. Other than the defendant, who was involved in
17 criminal conduct on Privinvest?

18 A Iskandar Safa, Najib Allam and David Langford.

19 Q What was Najib Allam's role?

20 A He was the chief financial officer of Privinvest. He was
21 the person that made payments to me in relation to kickbacks
22 on all payments.

23 Q What was Iskandar Safa's role?

24 A He is the CEO of Privinvest. He jointly owns the
25 company. He was the person that would find the projects and

A. Pearse - Direct/Mr. Bini

1 he agreed the payment of the payments and kickbacks to me.

2 Q You mentioned David Langford. Who is that?

3 A He is a lawyer that works for Iskandar Safa.

4 Q What was his role?

5 A He was the person who wrote the contracts for each of the
6 projects and acted as an advisor to Iskandar Safa.

7 Q In total, how much did you receive for your participation
8 in the fraud scheme Mr. Pearse?

9 A \$45 million.

10 Q Do you know how much approximately the other bankers
11 received?

12 A Yes, sir.

13 Q How do you know that?

14 A I know because, in the case of Surjan Singh, I negotiated
15 a payment of \$4 million by Privinvest with the defendant to
16 Surjan Singh and I paid Surjan Singh \$2 million. In relation
17 to Detelina Subeva, I paid her \$2.2 million.

18 Q What about Makram Abboud?

19 A In relation to Makram Abboud, I was told by the defendant
20 that Privinvest had paid him \$2 million. And I had a
21 conversation with Makram in Dubai where he confirmed that he
22 received payment in about 2015.

23 Q What did Makram Abboud say to you in about 2015?

24 A At that time, he was -- it was looking like the loans to
25 the three companies were going to default. And when I met

A. Pearse - Direct/Mr. Bini

1 with him in Dubai he was very agitated. And he said we're
2 both fucked if this comes out because we were both paid by
3 Privinvest. Excuse me my language.

4 THE COURT: It's okay, we've heard it before.

5 Q How much did Armando Guebuza, the son of the president,
6 receive?

7 A The defendant told me that Privinvest had paid him
8 \$50 million.

9 Q Do you know how much, approximately, the defendant
10 received?

11 A I know that the defendant was my partner in Palomar
12 Capital Advisors. I know that I received \$34 million in
13 dividends in relation to being a partner in that business. So
14 I know the defendant received the same amount of money for
15 Palomar's advisory services for EMATUM and MAM.

16 MR. BINI: Your Honor, I've gone past of the
17 afternoon break.

18 THE COURT: Would you like to continue your direct
19 examination after we take our 15-minute break?

20 MR. BINI: Yes, Your Honor.

21 THE COURT: Ladies and gentlemen, we're going to
22 take our 15-minute break a little past the promised time.

23 Please do not talk about the case.

24 I am directing the witness you are still under oath.
25 Do not talk to anyone about your testimony during the break.

A. Pearse - Direct/Mr. Bini

1 When you come back, the first question I'm going to ask you,
2 sir, is: Did you talk to anyone about your testimony during
3 the break? And your answer had been better be: No, Your
4 Honor, I did not.

5 We're going to take our break. Thank you, ladies
6 and gentlemen of the jury. Do not talk about the case, just
7 hope for the Yankees. That's all I can say unless you're a
8 Met fan or a Red Sox fan then hope for whatever you want.

9 You may.

10 (Jury exits courtroom at 3: 20p.m.)

11 THE COURT: You may step down, sir, thank you.

12 (Witness leaves the witness stand.)

13 THE COURT: The jury has left the courtroom. Do we
14 have any procedural issues to talk about in the absence of the
15 jury.

16 MR. BINI: Not from the Government.

17 THE COURT: Not from the Government. For the
18 defense?

19 MR. JACKSON: No, Your Honor.

20 THE COURT: All right. See you in 15 minutes.

21 MR. JACKSON: Your Honor, I'm sorry, I'm really
22 sorry, I spoke --

23 THE COURT: It's the Colombo: Just one more thing.

24 MR. JACKSON: Yes, just one more thing.

25 THE COURT: Sit down everyone. Go ahead.

A. Pearse - Direct/Mr. Bini

1 Mr. Jackson.

2 MR. JACKSON: This is very small. I wanted to alert
3 the Court before I forgot. We have agreed on certain e-mails
4 that will be admissible throughout the trial. It's my
5 expectation that we will be able to agree on many, but some of
6 them may implicate rulings that your Honor has already made.

7 The Government has indicated they would have no
8 objection, but I wanted to raise with the Court is it okay for
9 us to just indicate now outside the presence the jury that all
10 of our objections from motions in limine are preserved and we
11 need not object again to the extent that we are now in
12 agreement with the Government.

13 THE COURT: No, because sometimes my friends on the
14 17th floor get confused about that. So here's how you're
15 going to do it. The Government will move the admission of X
16 and you will respond either "no objection"; or you will say
17 "objection," not a speaking objection. And then I will rule
18 or you will say, "No objection beyond previously submitted."

19 MR. JACKSON: Thank you, your Honor.

20 THE COURT: So that's how we handle that to make it
21 clear that you preserved your record which you also are not
22 alienating the jury by objecting unduly. So I get it, but we
23 have to keep a nice clean record for my friends on the 17th
24 floor.

25 MR. JACKSON: That's excellent, Judge, thank you.

A. Pearse - Direct/Mr. Bini

1 THE COURT: Thank you. All right anything else.

2 MR. BINI: No, Your Honor.

3 THE COURT: All right. Enjoy your break.

4 (A recess in the proceedings was taken.)

5 (Witness takes the witness stand.)

6 THE COURT: Please be seated. We will bring in the
7 jury now before we proceed with the examination.

8 MR. JACKSON: Excuse me, your Honor.

9 THE COURT: Yes.

10 MR. JACKSON: I believe there's a slight issue that
11 your deputy has been informed about. We've been notified.

12 THE COURT: Why don't you inform me about it.

13 MR. JACKSON: Sorry. We've been notified by the
14 U.S. Marshal Service that there's a computer issue with cell
15 doors and so to may take a moment for Mr. Boustani to be
16 brought back out.

17 THE COURT: Since you've outed him, does that matter
18 so much?

19 MR. JACKSON: No, I just -- he can't come out until,
20 I know you were about to bring the jury out I don't know how
21 long it'll be.

22 THE COURT: My only point is you outed the fact that
23 he's incarcerated.

24 MR. JACKSON: We're not hiding that. I am letting
25 the Court know it might be a few minutes before you can unlock

A. Pearse - Direct/Mr. Bini

1 him.

2 THE COURT: Okay. So we will await his arrival.

3 (A brief pause in the proceedings was held.)

4 (Continued on the next page.)

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PROCEEDINGS

1 THE COURT: Mr. Jackson, would you go ask the
2 marshals how much longer it is going to take?

3 THE COURTROOM DEPUTY: Coming out in like 30
4 seconds, Judge.

5 THE DEFENDANT: Sorry, Your Honor.

6 THE COURT: It's okay.

7 All right, Mr. Jackson. Would you tell the CSO to
8 bring out the jury now.

9 (Jury enters courtroom.)

10 THE COURT: Welcome back, ladies and gentlemen of
11 the jury. Again, I appreciate your patience. We've been
12 doing a little business while you were in the jury room. So
13 please be seated.

14 And, again, I call your attention to the witness,
15 Mr. Pearse. Have you discuss your testimony with anyone
16 during break?

17 THE WITNESS: I have not, Your Honor.

18 THE COURT: All right. That's the right answer.

19 And, again, I call your attention, ladies and
20 gentlemen of the jury, to that clock. It's going to be
21 five o'clock in exactly 50 minutes, and that's when we're
22 going to suspend for the day. You can hold me to it. Perhaps
23 the lawyers were overhearing what I just said to you. We'll
24 see.

25 Continue.

PEARSE - DIRECT - BINI

1 MR. BINI: Yes, Your Honor.

2 Q Mr. Pearse, before we broke, you had mentioned a guaranty
3 with respect to the loans. Who signed the guaranty for the
4 loans in this case?

5 A In all three cases it was signed by the then-minister of
6 finance, Manuel Chang.

7 Q Was a guaranty important in the loan process?

8 A Yes.

9 Q Why?

10 A Without the guaranty, the banks would not have lent the
11 money.

12 Q Why not?

13 A Because the risks that the banks were prepared to take
14 was sovereign risk. The risk of the government, not the risk
15 of the project.

16 Q When you say "sovereign risk," what government do you
17 refer to?

18 A The government of Mozambique.

19 Q And was that guaranty important to outside investors?

20 A Yes. It's the same, same principle. Overall, as far as
21 I was aware, all of the banks and investors who participated
22 in these loans did so on the basis of the guaranty from the
23 government of Mozambique.

24 Q You spoke about payments from Privinvest. Who did you
25 speak to at Privinvest regarding the payments to you?

PEARSE - DIRECT - BINI

1 A Jean Boustani and Iskandar Safa.

2 Q Why did you speak to Jean Boustani and Iskandar Safa?

3 A Those were the two individuals who negotiated and agreed
4 to pay me the kickbacks and the unlawful payments.

5 Q I'd like to ask you a little bit about what happened to
6 Proindicus, EMATUM, and MAM. Who was supposed to pay the
7 Proindicus loan back to investors?

8 A Proindicus was supposed to generate revenue from its
9 operations to pay back the loans.

10 Q Who was supposed to pay the EMATUM loan back to the
11 investors?

12 A EMATUM was supposed to finance a fishing fleet which
13 would pay back the loans from the proceeds of sales of fish.

14 Q Who was supposed to pay the MAM loan back to investors?

15 A MAM was expected to generate revenue from selling ships
16 and servicing the ships of Proindicus and EMATUM.

17 Q How were the companies supposed to actually make these
18 payments?

19 A I'm sorry. I don't understand the question, sir.

20 Q Were the companies, the Mozambican companies, were they
21 projected to make revenue or profits?

22 A Yes, they were. In each case there was a business plan
23 prepared which showed -- was designed to show that the
24 relevant company would generate hundreds of millions --
25 hundreds of millions of dollars in profits.

PEARSE - DIRECT - BINI

1 Q Would that have been enough to make the loan payments?

2 A Yes. Had the loan projections been correct, the project
3 company involved would have been able to repay the loan
4 itself.

5 Q Did the project companies actually make any revenue?

6 A Not that I'm aware of.

7 Q What happened to the Proindicus, EMATUM, and MAM loans?

8 A Proindicus failed to make the payments that were due on
9 the loan and they defaulted. EMATUM was repaid through an
10 exchange of the EMATUM bond into the sovereign bond I
11 described earlier, and the MAM loan has defaulted as well.

12 Q Who has to pay the 2 billion in loans back?

13 A The guarantor, the government of Mozambique.

14 Q Are you familiar with the size of Mozambique's economy?

15 A Yes, I am.

16 Q Is it a rich or a poor country?

17 A It's a poor country.

18 Q Are the 2 billion in loans significant for Mozambique?

19 A Yes. It is a large portion of its government budget.

20 Q What do you mean by the government budget?

21 A My understanding is that the total spending of the
22 government of Mozambique is approximately \$2 billion. That's
23 the same amount as the amount of the loan.

24 Q I'd like to ask you some questions about your path to
25 working at Credit Suisse. Where did you work before Credit

PEARSE - DIRECT - BINI

1 Suisse, Mr. Pearse?

2 A Before joining Credit Suisse, I was a lawyer in London.

3 Q How long had you worked as a lawyer in London?

4 A Approximately eight years.

5 Q Where did you work?

6 A Ultimately, I worked for a British law firm called
7 Freshfields.

8 Q Did you have a specialty when you worked at Freshfields?

9 A Yes, I did.

10 Q And what was that?

11 A I specialized in banking and structured finance.

12 Q Did there come a time that you came to Credit Suisse?

13 A Yes, I did.

14 Q And approximately what year was that?

15 A 2000.

16 Q While at Credit Suisse, were you allowed to earn money
17 outside of your salary from Credit Suisse?

18 A Only if you disclosed outside earnings and it was
19 approved by the bank.

20 Q And did you do that in this case?

21 A Which case, sir?

22 Q The kickbacks that you've been talking about earlier.

23 A No, I did not disclose that to Credit Suisse.

24 Q Other than with what you've been discussing here, did you
25 ever violate Credit Suisse's policy on receiving outside

1 compensation or salary?

2 A Yes, I did.

3 Q And when was that?

4 A In 2012.

5 Q How did that occur?

6 A I was working on a complicated transaction in Russia and
7 part of that transaction involved a derivative instrument.

8 Q What's a derivative?

9 A It's a complicated financial instrument which reflects
10 the price of an underlying asset. It's difficult to explain
11 more simply without talking at length.

12 Q Okay. What did you receive in pay with respect to this
13 derivative?

14 A In respect to the derivative transaction, I told a friend
15 of mine about the transaction and Credit Suisse was unable to
16 do that element of the transaction. They were able to do some
17 part but not the rest, and he took that information and
18 received a broker fee from another bank for identifying to
19 that other bank the opportunity to enter into the derivative
20 with my client.

21 Q Who is your friend who took advantage of this
22 information?

23 A His name is Antanas Petriosus.

24 THE COURT: Would you spell that, please.

25 THE WITNESS: Yes, Your Honor. A-N-T-A-N-A-S. Last

PEARSE - DIRECT - BINI

1 name is P-E-T-R-I-O-S-U-S.

2 Q What payments, if any, did Mr. Petriosus make to you?

3 A He shared with me part of the brokerage fee he received,
4 and I received \$3 million.

5 Q Did you make any other false statements in relation to
6 that transaction you were describing?

7 A Yes, I did.

8 Q What did you do?

9 A In relation to part of the monies I received,
10 \$1.65 million from Mr. Petriosus into my bank account with
11 Barclays Bank in Jersey and I falsely told the Barclays
12 bankers that I was receiving that money by way of a loan from
13 my friend.

14 Q Did you continue to make false characterizations
15 regarding that loan into 2019?

16 A Yes, I did.

17 Q How so?

18 A In 2019, post being arrested in the United Kingdom, I
19 continued to describe the 1.65 million as a loan in order to
20 conceal it and I made an attempt to repay that fictitious loan
21 to my friend.

22 Q You said after you were arrested. When were you arrested
23 in connection with this case?

24 A Third of January, 2019.

25 Q Where?

PEARSE - DIRECT - BINI

1 A In London, U.K.

2 Q Did any other of your family members benefit from your
3 conduct with Mr. Petriosus?

4 A Yes, they did.

5 Q Can you explain that to the jury?

6 A My father-in-law owned a furniture manufacturing business
7 in the Midlands of the United Kingdom and my friend made an
8 investment in 2013 in that company, which totaled £1 million
9 which is approximately \$1.5 million. It was approximately
10 \$1.5 million in those days.

11 Q Why did he do that?

12 A He did that to invest in the company and he did that
13 because I asked him to do so.

14 Q Did you receive any other benefits from Antanas
15 Petriosus?

16 A Yes. The \$3 million that he promised me was not paid in
17 cash. 1.65 million was paid in cash. He also bought me a
18 sports car.

19 THE COURT: What kind?

20 THE WITNESS: An Aston Martin, Your Honor.

21 Q How much was that worth?

22 A Approximately \$300,000.

23 Q Did he give you any other benefits to you or family
24 members?

25 A He paid school's fees for my nephew for one year. He

PEARSE - DIRECT - BINI

1 provided me with cash from time to time totaling approximately
2 50 or \$60,000, and I agreed to reduce the amount he owed me
3 for his involvement in helping to introduce VTB to Privinvest
4 for the EMATUM transaction.

5 Q After you were arrested in London in connection with this
6 case, you indicated that you pled guilty to a crime. Did you
7 plead guilty in connection with an agreement with the
8 government?

9 A Yes, I did.

10 MR. BINI: Your Honor, at this time I would ask
11 permission to hand up 3500-AP-3 and then a series of exhibits
12 that I might read into the record if that were permissible.

13 THE COURT: Well, let's back up. Any objection?
14 Are you offering 3500 in evidence or no?

15 MR. BINI: I would offer it in evidence.

16 THE COURT: All right. Any objection to that
17 document coming into evidence, defense counsel?

18 MR. SCHACHTER: No, Your Honor.

19 THE COURT: It's admitted. You may publish it to
20 the jury. That's how I speed things up.

21 MR. BINI: Great.

22 (Government Exhibit 3500-AP-3, was received in
23 evidence.)

24 (Exhibit published.)

25 MR. BINI: If we can show 3500-AP-3.

PEARSE - DIRECT - BINI

1 THE COURT: Can you see it, ladies and gentlemen, on
2 the screen? And also on the drop down. Hopefully,
3 Mr. Jackson, you'll get it so the jury can see it.

4 THE COURTROOM DEPUTY: Is it on the laptop or --

5 MR. BINI: We're actually we're trying to use Trial
6 Director.

7 THE COURT: Ladies and gentlemen of the jury, we
8 have a couple of systems. So they have to indicate to my
9 court deputy which system they are using before. You now see
10 it? Okay. So that's what we're going to periodically have to
11 do it.

12 Can you dim the lights a little bit so they can see
13 it better?

14 Can you see it, ladies and gentlemen of the jury?
15 Can you read it? Yes?

16 ALL: No.

17 THE COURT: No. It's still a little fuzzy? Is that
18 a little better?

19 ALL: Yes.

20 THE COURT: Okay. Again, you're the finders of the
21 facts. So, as I said, I would say make sure you can see the
22 exhibits.

23 Go ahead.

24 BY MR. BINI:

25 Q Mr. Pearse, what is 3500-AP-3?

PEARSE - DIRECT - BINI

1 A It is the first page of the agreement that I have with
2 the United States Government.

3 Q What is your understanding of what you have to do under
4 this agreement with the United States Government?

5 A My understanding is that I am required to provide the
6 government with all information that I have in relation to the
7 crimes that were committed and to tell the truth about those
8 matters in this court.

9 Q If you look to paragraph 1, does it set out what you face
10 as a result of your plea?

11 A Yes, it does.

12 Q What do you understand the maximum term of imprisonment
13 that you face is?

14 A Twenty years.

15 Q Do you face a term of supervised release as a result of
16 your agreement with the government?

17 A Yes, I do.

18 Q How much?

19 A Three years.

20 Q Could you go to the second page of the agreement? I'm
21 going to direct your attention to paragraph 1D and ask you if
22 you face a fine as a result of your guilty plea?

23 A Yes, I do.

24 Q What is the fine that you face?

25 A The greater of \$250,000 or twice the gross gain or twice

PEARSE - DIRECT - BINI

1 the gross loss.

2 Q Do you have any understanding of what twice the gross
3 gain or twice the gross loss could be in this case?

4 A My understanding that in relation to the gross gain, that
5 would be twice as much money as I received in the course of my
6 conduct. So \$90 million.

7 Q Do you face restitution?

8 A Yes, I do.

9 Q What do you understand restitution to be?

10 A It is to repay losses which victims have suffered as a
11 result of my action.

12 Q Do you have any understanding of what that might be in
13 this case?

14 A I do not.

15 Q How much are the loans in total?

16 A \$2 billion.

17 Q I'd like to ask you about forfeiture. Did you agree to
18 certain forfeitures as a result of your guilty plea?

19 A Yes, I did.

20 Q Is that set out in paragraph 1G?

21 A That is part of it, yes.

22 Q And what does it set out there?

23 A It requires me to pay two and half million dollars to the
24 U.S. Government.

25 Q Does it also require the forfeiture of certain properties

PEARSE - DIRECT - BINI

1 set out in paragraphs 6 to 14?

2 A Yes. It requires me to pay the proceeds of certain
3 properties and to transfer all rights and interests in certain
4 assets.

5 Q If we can go to page 4, paragraph 6, what is set out in
6 paragraph 6?

7 A Paragraph 6 sets out the fact that I consent to pay two
8 and half million dollars as a forfeiture money judgment, plus
9 the proceeds of sale of Farsight Limited.

10 Q What's Farsight Limited?

11 A Farsight Limited is a company that has assets in South
12 Africa, and those properties are included in the -- in the
13 forfeiture.

14 Q When did you acquire those properties?

15 A 2015.

16 Q Is that after you received proceeds from your criminal
17 conduct?

18 A Yes, I acquired those properties with the proceeds of the
19 crime.

20 Q Do you have any idea what the South African properties
21 are worth, Farsight Limited?

22 A To the best of my knowledge, they are worth between two
23 and \$3 million.

24 Q Looking to page 5 of your agreement, did you agree to
25 forfeit certain other interests that you have?

PEARSE - DIRECT - BINI

1 A Yes. I agreed to forfeit my interests in all Palomar
2 companies.

3 Q What are those companies?

4 A There's a series of companies that -- the original
5 Palomar Capital Advisors company was the advisor on the
6 Mozambican loans and also Palomar companies which owned
7 primarily oil and gas concessions in Poland.

8 Q Let me take a step back and ask you: What does
9 "forfeiture" mean? What do you understand that to mean?

10 A I understand that to mean that I have to hand over to the
11 government everything which is identified as forfeitable.

12 Q You mentioned a series of Palomar companies. Do you have
13 any idea of the value of these companies which you've agreed
14 to forfeit and hand over to the government?

15 A Yes. I believe that the primary asset in these companies
16 is my interest in the Polish gas field, and I believe that to
17 be worth between 35 and \$40 million.

18 Q Why do you believe it's worth that amount of money for
19 your interest?

20 A Since 2016 I have been attempting to sell the asset and
21 received a number of offers for the gas field, which were
22 approximately \$17 million.

23 Q How did you acquire these Palomar assets?

24 A These assets, my share of these assets were acquired from
25 or using the funds that I had received as the proceeds of

PEARSE - DIRECT - BINI

1 crime in relation to the matter at hand.

2 Q One of the Palomar entities or companies listed in
3 Palomar natural resources. What's that?

4 A That is the company that owns the gas fields in Poland.

5 Q And does -- is there any Palomar company that owns gas
6 fields or concessions in the United States?

7 A Yes. Palomar also acquired rights to explore oil fields
8 in New Mexico in 2013.

9 Q Did you acquire those by yourself or with anyone else?

10 A I acquired them with my partners at the time.

11 Q Who were your partners at the time?

12 A Iskandar Safa and Jean Boustani.

13 Q The defendant?

14 A Yes.

15 Q How did you acquire your interests in that U.S. property?

16 A I acquired my share of that property using monies that I
17 had received from Privinvest in relation to these projects,
18 which were the proceeds of the crime.

19 Q I'd like to go back now in your agreement with the
20 government to page 3, paragraph 3. Is there -- what is
21 paragraph 3 of your agreement with the government, Mr. Pearce?

22 A Excuse me if I read it quickly.

23 Q Please do.

24 A This clause is my agreement not to appeal any conviction
25 which is imposed by this court unless it exceeds 20 years.

PEARSE - DIRECT - BINI

1 Q Do you mean any sentence that is up to 20 years you have
2 no right of appeal?

3 A Yes, that's correct.

4 Q If I could ask you to look at paragraph 4 of your
5 agreement with the government. What do you understand this
6 paragraph to require of you under this agreement?

7 A This paragraph requires me to provide truthful, complete
8 and accurate information that I have in relation to the matter
9 at hand.

10 Q Does it require you to testify here today if the
11 government so requires?

12 A Yes.

13 Q If we could look to page 10 of your agreement with the
14 government, paragraph 18. Mr. Pearce, in your own words what
15 do you understand this to require?

16 A This is a restatement of the fact that I am required to
17 provide truthful and accurate information and testimony and
18 not to commit any further crimes.

19 Q What do you understand can happen if you fail to give
20 truthful and accurate cooperation?

21 A If I were to lie in the Court, the government would have
22 the ability to rip up the agreement.

23 Q And what would you face then?

24 A That would expose me to all four counts of the original
25 indictment, which I understand to have a total potential

1 sentence of 50 years or more.

2 Q Have you met with the government in connection with your
3 cooperation after signing this agreement?

4 A Yes, I have.

5 Q And if we go page 12, when did you sign this agreement to
6 plead guilty?

7 A I signed the agreement on the second of July of 2019.

8 Q And you met with the government before and after signing
9 this agreement with the government?

10 A Yes, I met with the government in London prior to signing
11 it and subsequently.

12 (Continued on the next page.)

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A. Pearse - Direct/Mr. Bini

1 EXAMINATION BY

2 MR. BINI:

3 (Continuing.)

4 Q What is your understanding of what the Government will
5 give you in return for your meeting your obligations under the
6 cooperation agreement, if anything?

7 A In the event that I am -- the Court decides that I am
8 truthful, then the Government has a good-faith obligation to
9 write a letter to the Court. I think it's called a 5K letter.

10 Q What does the 5K letter do in your understanding?

11 A It sets out how I have accepted responsibility for my
12 actions and provided the Government with full and complete and
13 truthful information in relation to my crime.

14 Q Will the Government recommend a specific sentence for
15 you?

16 A No. No one has.

17 Q Who decides if you get that 5K letter?

18 A The Government does.

19 Q Who decides your sentence?

20 A His honor.

21 Q What do you think could happen if you lie here today to
22 this jury and with this judge?

23 A If I lie today, or at any time, the Government will take
24 away the cooperation agreement and I will be exposed to in
25 excess of 50 years in prison in a foreign country and all of

A. Pearce - Direct/Mr. Bini

1 my assets, wherever they are, including the home my family
2 lives in will be forfeited by the Government.

3 Q Mr. Pearce -- you can take that down, Ms. Dinardo. Thank
4 you.

5 When did you first hear about a deal in Mozambique?

6 A Midway through 2012.

7 Q What was that first deal to do?

8 A This was the Proindicus transaction which was to build a
9 coast guard system for Mozambique for its exclusive use.

10 Q What type of loan was going to be given for Proindicus?

11 A Proindicus was a syndicated loan.

12 Q What's a syndicated loan?

13 A It is a loan which is documented to allow the bank to
14 sell parts of that loan to third-party banks and investors.

15 Q What were the loan proceeds for the Proindicus loan
16 supposed to be used for?

17 A They were supposed to be used to pay for the costs of
18 developing the project.

19 Q And why -- well, first, let me ask: Was Mozambique
20 interested in protecting its exclusive economic zone?

21 A Yes, it was.

22 Q Why?

23 A Just prior to that, in late 2010, an enormous gas field
24 was discovered off the coast of Mozambique in the northern
25 parts of the country.

A. Pearse - Direct/Mr. Bini

1 Q Were those natural gas reserves valuable?

2 A Yes, they're worth hundreds of billions of dollars.

3 Q When you first became involved in the Proindicus loan,
4 did you think it was legitimate?

5 A Absolutely I did, yes.

6 Q Did anything occur that changed your thinking?

7 A Yes. The defendant offered to pay me a kickback.

8 Q When did that occur, Mr. Pearse?

9 A That occurred in February of 2013.

10 Q Can you describe to the jury where you were at that time?

11 A I was in Maputo which is the capital city of Mozambique.

12 THE COURT: Would you spell that, please.

13 THE WITNESS: Yes, your Honor. M-a-p-u-t-o.

14 Q Do you know approximately when in February of 2013 you
15 met with the defendant and had this kickback conversation?

16 A Yes. It was approximately the 26th of February 2013.

17 Q And what was the nature of your conversation with the
18 defendant?

19 THE COURT: Before you get there, how did the
20 conversation come about?

21 How did you come to be having the conversation?

22 THE WITNESS: As part of the structure of the loan,
23 Credit Suisse, the lending bank, required the contractor to
24 subsidize the cost of the loan. That subsidy is known
25 technically as a subvention fee. During the course of

A. Pearce - Direct/Mr. Bini

1 negotiating the loan, Credit Suisse asked for a high
2 subvention fee, much higher than was required by the bank in
3 order to meet the economic threshold for making the loan.

4 And whilst in Mozambique in that period, I
5 identified to the defendant that the bank could reduce the
6 amount of that fee, that subvention fee, by \$11 million.

7 Q You said subsidize the loan. What does that mean,
8 subsidize the loan?

9 A So the terms of loan that's been agreed between the bank
10 and the borrower, Proindicus and the Government of Mozambique,
11 had an interest rate which was lower than was required by the
12 bank in order to make the loan. It was on terms which were
13 below market levels for Mozambique credit risk.

14 Q So what was the subvention fee going to be for the
15 original Proindicus loan?

16 A At that time, at that point, the 25th of February, 26th
17 of February, the subvention fee that had been proposed was
18 \$49 million.

19 Q And how much was the total Proindicus loan at that point?

20 A At that time, it was \$372 million.

21 Q Was the entire \$372 million going to go to Privinvest for
22 that?

23 A Not quite, almost. It was a fee, arranged fee of about
24 \$6 million that was kept by the bank.

25 Q And after that fee came out, would the rest of the

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1 proceeds of the loan go to Privinvest?

2 A The way it worked was that the bank also deducted the
3 subvention fee before it paid the money to Privinvest.

4 Q So they deduct that \$49 million from the total amount of
5 loan before sending it to the contractor?

6 A No, they didn't because, ultimately, the amount of
7 subvention fee was lower. But using your example, had it been
8 \$49 million, yes, they would have deducted that first.

9 Q What actually happened?

10 A I made the defendant aware that that \$49 million
11 subvention fee could be reduced.

12 Q How much do you think it could be reduced by?

13 A I knew it could be reduced by \$11 million.

14 Q What, if any, conversation did you have with the
15 defendant regarding reducing that fee?

16 A At the time, I identified to the defendant that he had
17 not negotiated the subvention fee very well in accepting
18 \$49 million as a fee.

19 Q What did he say to you?

20 A At the time, nothing.

21 Q Did you have another conversation with the defendant
22 regarding this fee?

23 A Yes.

24 Q What did the defendant say to you?

25 A The next day, the defendant approached me and asked me

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1 about the fee and confirmed that it could be reduced by
2 \$11 million and he asked me how he would like to split it
3 between us.

4 Q What did you say?

5 A I suggested 50/50.

6 Q How much was the fee going to be reduced?

7 A \$11 million.

8 Q How much was the defendant going to pay you?

9 A Five and a half million dollars.

10 Q Where were you working then?

11 A Credit Suisse.

12 Q Did you tell Credit Suisse that the defendant was paying
13 you \$5.5 million for this \$11 million reduction?

14 A At that point, they hadn't paid me anything.

15 Q Did you tell Credit Suisse personnel about your agreement
16 with the defendant?

17 A No, I did not.

18 Q When you said to the defendant to split it 50/50, what
19 did he say?

20 A He agreed.

21 Q What happened after your agreement with respect to the
22 subvention fee?

23 A The subvention fee was reduced from \$49 million
24 ultimately to \$38 million.

25 Q As a result of that lowering of the fee, did Privinvest

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1 receive more or less funds from the Proindicus loan?

2 A More.

3 Q How much more?

4 A \$11 million more.

5 Q Did the defendant pay you as he promised?

6 A Yes. I received the first installment of the five and a
7 half million dollars in April of 2013.

8 Q After your first agreement regarding the subvention fee,
9 did you ever reach any other agreements with the defendant
10 regarding loans for Proindicus?

11 A Yes, I reached an agreement with the defendant and his
12 boss, Iskandar Safa, to receive two and a half percent of the
13 amount of any increase in the Proindicus loans above the
14 original \$372 million.

15 Q When did you reach that agreement?

16 A I reached that agreement in March of 2013.

17 Q Where were you when you had conversations about that
18 agreement?

19 A I was in the south of France on the estate of Iskandar
20 Safa.

21 Q And what did Mr. Safa say to you about any other
22 Proindicus loans?

23 A Iskandar Safa was the boss who made decisions as to who
24 would be paid. In that meeting, he confirmed the agreement to
25 receive five and a half million dollars for reducing the

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1 subvention fee. I agreed to pay two and a half percent for
2 the loans that could be done.

3 Q Were you working at Credit Suisse at this point?

4 A Yes, I was.

5 Q Were you disclosing to Credit Suisse personnel these
6 kickback arrangements?

7 A I disclosed them to two of my colleagues but not to the
8 bank as was required by my employment contract.

9 Q Who were the bankers who you disclosed this to?

10 A Surjan Singh and Detelina Subeva.

11 Q Why did you disclose to them?

12 A They were friends of mine. And in the case of Surjan
13 Singh I paid him part of that fee I received.

14 Q How much in total did you receive in payments in relation
15 to the Proindicus loans?

16 A In total, just under \$12 million.

17 Q And was for this for work that you assisted while you
18 were still at Credit Suisse?

19 A Yes, it was.

20 Q I'd like to ask you some questions about some of the
21 documents regarding the beginnings of the Proindicus loan.

22 MR. BINI: Your Honor, at this time, I would seek to
23 move in Government's Exhibit 2070 and 2070-A.

24 THE COURT: Any objection?

25 MR. JACKSON: No objection.

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1 THE COURT: They're admitted. You may publish it
2 the jury.

3 (Government Exhibits 2070 and 2070A, were received
4 in evidence.)

5 THE COURT: Can you make it more legible so the jury
6 can see it.

7 Q Mr. Pearse, what is this e-mail?

8 A This is an e-mail from myself to Jean Boustani with
9 copies to Said Freiha, Surjan Singh, and Detelina Subeva.

10 Q What is the date of this e-mail?

11 A 19 September, 2012.

12 Q September 19, 2012?

13 A Yes, sir.

14 Q Okay. What is the subject of this e-mail?

15 A Subject is Mozambique.

16 Q And you mentioned in the CC line -- well, first, who is
17 it to?

18 A Jean Boustani.

19 Q And who does it copy?

20 A Said Freiha.

21 Q Who is that?

22 A Who was an employee of Credit Suisse who introduced
23 Privinvest to the bank.

24 Q And was he one of the bankers you mentioned earlier?

25 A Yes, he was.

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1 Q Who is Surjan Singh?

2 A Surjan Singh was the managing director at Credit Suisse
3 who worked for me in the Global Finance Group that made loans.

4 Q Who does Detelina Subeva?

5 A She was an employee of Credit Suisse who was more junior
6 and also worked in the same team and worked for me at Credit
7 Suisse.

8 Q Did you also have a romantic relationship with her?

9 A Yes, I did.

10 Q Did this e-mail attach something?

11 A Yes, it attached a term sheet.

12 Q What's a term sheet?

13 A A term sheet is a document which summarizes the key terms
14 of the loan that is to be made by the bank.

15 Q Why were you sending the key terms of the loan to the
16 defendant, Jean Boustani?

17 A Jean Boustani was the person that had introduced the
18 project to Credit Suisse and he was the person who we sent
19 documents to. It was the view that he would then send them to
20 the relevant people in Mozambique for approval.

21 Q Are there any people from Mozambique on this e-mail?

22 A No.

23 Q If we can look it 2070-A. What is this, Mr. Pearse?

24 THE COURT: It's difficult to read. Can you make it
25 more legible for the jury, please.

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1 MR. BINI: The top, Ms. Dinardo.

2 A This is the first page of the term sheet which sets out
3 in this case the indicative terms of the proposed \$350 million
4 financing for the Republic of Mozambique.

5 Q Is this the origins of what would become the Proindicus
6 loan?

7 A Yes. The concept of the loan originally was envisaged to
8 be made directly to the Government of Mozambique and later
9 changed it to be made to Proindicus with a guaranty from the
10 Government of Mozambique.

11 Q Had you met the defendant, Jean Boustani, by September of
12 2012?

13 A Yes, I met him once.

14 Q How did you have occasion to meet him?

15 A I was in the United Arab Emirates for other business and
16 I was introduced to Jean Boustani about a week before this in
17 Abu Dhabi.

18 Q And why had you met with the defendant in Abu Dhabi?

19 A I had met with him in order to understand the project in
20 Mozambique better myself. At this stage, I had personally not
21 worked on it, members of my team had. And also to understand
22 who Privinvest were and why they were writing the project or
23 being contracted for the project in Mozambique.

24 Q I can ask you to look at the third page of the term
25 sheet. I'm going to ask you to look at the section that's

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1 called "Syndication Assignment and Transfer."

2 MR. BINI: If we could below that up for the jury,
3 Ms. Dinardo.

4 Q Is this part of the term sheet that you sent the
5 defendant at the outset of this relationship?

6 A Yes, it is.

7 Q What is this clause?

8 A This is the clause which identifies the proposed loan as
9 a syndicated loan because it's the clause under which the
10 lender, the bank, is entitled to sell parts of the loan to
11 other banks and investors.

12 Q How long did you deal with the defendant in connection
13 with the criminal conduct?

14 A I'm sorry, is the question how long had I known the
15 defendant?

16 Q How long did you deal with him?

17 A In total, from September of 2012 until the end of 2018.

18 Q Over the course of your dealing with the defendant, did
19 you learn his professional background?

20 A Yes. The defendant told me certain things about himself.

21 Q What did he tell you about his professional background?

22 A He told me that he had worked for Deloitte prior to
23 working for Privinvest.

24 Q What's Deloitte?

25 A Deloitte is an international accountancy firm.

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1 Q What's an international accountancy firm?

2 A It's a company that provides accountancy advice, audits
3 of companies. It operates in a large number of companies I
4 think including the U.S.

5 Q You can take down that exhibit, Ms. Dinardo.

6 You had mentioned Iskandar Safa and Najib Allam.
7 Had you met them by September of 2012?

8 A No.

9 Q When did you first meet Iskandar Safa?

10 A Towards the end of 2012.

11 Q How did you meet him?

12 A I met him, again, in the United Arab Emirates in
13 Abu Dhabi.

14 Q Why did you meet with Iskandar Safa?

15 A It was further along the due diligence process. The
16 process by which I was getting information about the loan and
17 participants in the loan and I met him because he was the
18 owner of Privinvest.

19 Q And did Credit Suisse have concerns about Iskandar Safa
20 being involved with the transaction?

21 MR. JACKSON: Objection.

22 THE COURT: If you know.

23 THE WITNESS: At this stage, it was known to myself
24 and to the bank that Iskandar Safa had been involved in the
25 Lebanese hostage crisis in the 1980s and had been indicted in

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1 France in the '90s.

2 Q Did Credit Suisse have concerns then about his
3 involvement in a possible transaction in Mozambique?

4 A One of the key things for banks after the financial
5 crisis of 2008 and 2009 was the focus on reputational risk, so
6 not to do transactions with people or parties which would have
7 a negative reputational effect on the bank. So, yes, the
8 background of his clients were important to Credit Suisse.

9 Q Did you ask Iskandar Safa about paying bribes?

10 A I asked Iskandar Safa to describe to me the profitability
11 of the transaction of the Proindicus contract from their
12 perspective and I told him that I needed to know that
13 information in order to make sure that the bank wasn't getting
14 involved in a transaction which would involve corruption.

15 Q And what, if anything, did Iskandar Safa say to you?

16 A He told me that Privinvest does not pay bribes.

17 Q By the way, was Iskandar Safa wealthy?

18 A To the best of my knowledge, he was a billionaire.

19 Q You spoke about Najib Allam. How did you deal with him
20 and when did you first meet him?

21 A I met with him in early 2013. He was based, as far as I
22 was aware, at that time primarily in the United Arab Emirates.

23 THE COURT: And speaking of time, it is 5:00 o'clock
24 and we are adjourning for the day.

25 I caution the witness you will continue tomorrow.

1 You are not to talk to anyone about your testimony we will
2 resume tomorrow at 9:30 a.m.

3 All the jurors, of course, will report downstairs
4 and then to the jury room, so we'll get started promptly at
5 9:30 tomorrow.

6 I thank you for your time and attention and, ladies
7 and gentlemen, I don't think the Yankees will be playing
8 baseball tonight but, you know, keep your fingers crossed.

9 Thank you. We're adjourned for the day. Do not
10 talk about the case yet, obviously, we're just getting
11 started. Thank you.

12 (Jury exits courtroom at 5:02 p.m.)

13 THE COURT: You may step down, Mr. Pearse. Thank
14 you.

15 (Witness leaves the witness stand.)

16 THE COURT: The jury has left the courtroom.

17 Do we have any procedural issues to address before
18 we adjourn for the day and resume tomorrow at 9:30 in the
19 morning.

20 Anything from the Government.

21 MR. BINI: Your Honor, I just wanted to clarify.

22 THE COURT: Why don't you sit down and use the
23 microphone when you speak rather than stand up because I can't
24 hear you properly.

25 Go ahead.

1 MR. BINI: I just wanted to clarify. With respect
2 to Mr. Pearse, of course, I will have no contact with him. He
3 has a lawyer. Is he permitted to speak to his attorney?

4 THE COURT: No.

5 MR. BINI: Okay. Thank you, your Honor.

6 THE COURT: You're welcome. Not while he's a
7 witness. He certainly is able to speak with his attorney
8 after he completes his testimony but not while he's on
9 examination.

10 MR. BINI: Thank you, your Honor.

11 THE COURT: Yes. Anything else?

12 MR. SCHACHTER: Yes, your Honor.

13 THE COURT: From the Government.

14 MR. BINI: Nothing from the Government.

15 THE COURT: From the defense. Please use the
16 microphone.

17 MR. SCHACHTER: Yes, your Honor. Your Honor, the
18 Government inquired regarding Mr. Safa's involvement in a
19 Lebanese hostage crisis.

20 THE COURT: I was going to ask you to spell the name
21 for the reporter.

22 MR. SCHACHTER: Sure Safa, S-a-f-a.

23 THE COURT: Yes.

24 MR. SCHACHTER: Your Honor in the Court's decision
25 and order dated October 3, 2019, the Court noted the following

1 on Page 5.

2 THE COURT: Read it slowly.

3 MR. SCHACHTER: "The Government does not intend to
4 offer evidence regarding the founder of Privinvest in its
5 direct case."

6 THE COURT: Okay. Go ahead.

7 MR. SCHACHTER: The Government's questioning of
8 Mr. Pearse this afternoon and I anticipate, based on my
9 discussions with the Government, that they intend to go
10 further into this subject in violation of what they had
11 pledged to do and the Court noted in the Court's order.

12 I will speak further to the Government about this
13 over the evening, but we will be objecting to attempts to
14 elicit from Mr. Pearse what Credit Suisse did or did not think
15 about Mr. Safa's activities.

16 THE COURT: What is the response of the Government
17 to the observation that defense counsel has made?

18 MR. BINI: Your Honor, we had agreed not to put in a
19 report, a report of due diligence report that called Mr. Safa
20 a "Master of Kickbacks." And we're not seeking to do that and
21 we will not seek to elicit that. However, the concern that
22 the bank had regarding the involvement of Mr. Safa in the
23 transaction is relevant to the circumvention and also willful
24 blindness as to violations of the Antibribery Provisions of
25 the FCPA. Both of them are SUAs of the money laundering

1 provision.

2 THE COURT: I'm taking you are not seeking to admit
3 the report that you agree with the defense you would not seek
4 to admit; is that correct?

5 MR. BINI: That's correct, your Honor.

6 THE COURT: All right. So what I'm going to direct
7 the parties to do is the following. To the extent you can
8 stipulate in a written stipulation on this issue that you're
9 prepared to have go to the jury with respect to this issue, I
10 think that would probably be the better way to handle it
11 rather than to have World War III over the nature of this
12 gentleman and his background because if you can stipulate to
13 it, it's fine. If you can't stipulate to it, then I might
14 have to revisit my earlier ruling with respect to the report
15 and reconsider whether or not to have to come in.

16 So it might be a good idea for all concerned to have
17 a linear approach to the issue of this gentleman and his
18 background. Otherwise, we can wind up with all sorts of
19 collateral discussions about this gentleman and his
20 background.

21 I think it's in the interest of both sides, again,
22 just offering a suggestion, which parties are free to take or
23 not take to cabin the issue so we don't wind up with having an
24 unnecessary battle. We had enough necessary battles, we don't
25 need collateral battles.

1 MR. SCHACHTER: We agree with the Court. May I have
2 just a moment to speak to Mr. Jackson?

3 MR. BINI: That's fine. Mr. Schachter, I think,
4 really misquoted.

5 THE COURT: Let's not go there. Let's not go there.
6 It's the end of the day and I'm sure he didn't misquote
7 anything deliberately because after all I do have the text of
8 my orders and what parties have written.

9 I once had a young gentleman an attorney come in who
10 had filed a complaint in a civil case and he quoted a statute
11 as saying that in addition to the Government having a right of
12 action there was a private right of action. And he quoted the
13 language of the statute. And I being old school pulled the
14 statute from something called books which my law clerks laugh
15 at me for still using. And the language wasn't in the book.
16 And I looked at something called a pocket part which they
17 really laughed at me because they didn't anyone still relied
18 on that. I looked at the pocket part. And then because
19 they're a lot brighter, they went to the computer. And they
20 said it wasn't in the computer.

21 So when the letter came in on the civil request for
22 a motion, preconference motion to dismiss the complaint, and
23 the defendant stated that there was no prior right of action
24 in the statute, I turned to the lawyer who filed the complaint
25 and I said, You know, I looked at the book and I couldn't find

1 it, I look at the pocket part and couldn't find it. More
2 importantly, my brilliant law clerks looked in the computer
3 and they couldn't find it. And he said well, your Honor, it's
4 true it's not in the language that's written down in the
5 statute but it's in the spirit of the statute as drafted.

6 And I assured him that I knew it would take him less
7 than eight hours to return to his office and file a motion to
8 dismiss the complaint voluntarily with prejudice because I
9 knew that my efficient law clerks would not let the sun go
10 down without dismissing the complaint and imposing sanctions.
11 Something I told the senators I never, ever wanted to have to
12 do in any case. I think within an hour we had that dismissal.
13 So I'm sensitive to my slow approach and very sensitive to my
14 law clerks' very fast approach.

15 MR. BINI: Thank you, your Honor.

16 THE COURT: That's a civil case. Okay. Anything
17 else.

18 MR. SCHACHTER: Your Honor, with the point -- it's
19 not clear why the Government was inquiring about Mr. Safa's
20 involvement.

21 THE COURT: Because it's the end of the day and
22 because it's early in the trial. It may not be clear to you,
23 it may not even be clear to them. It's certainly not clear to
24 me, but be careful what you ask for in terms of clarity
25 because it's a double-edged sword especially in an area like

1 this. So if you want to push it, we can push it, but you may
2 not want to do that or you may want to.

3 MR. JACKSON: Your Honor, there is just one issue
4 the witness made reference to Mr. Safa's alleged involvement
5 in a Lebanese hostage crisis and we do think that that, that
6 that shouldn't be allowed to stand.

7 THE COURT: That is why I am respectfully suggesting
8 that you have an agreed-upon stipulation with respect to that
9 gentleman and that issue and that involvement, or I can decide
10 it. I offered you a suggestion. The suggestion is you talk
11 with the Government and come in with the stipulation on that
12 fact. If you don't want to take my suggestion, don't and then
13 live with my ruling with respect to his background. That is
14 your choice. I am agnostic on that. I am just telling you
15 something that might be helpful to both sides.

16 MR. JACKSON: We agree, Judge, thank you.

17 THE COURT: You're very welcome.

18 MR. BINI: Thank you, your Honor.

19 THE COURT: Anything else.

20 MR. BINI: Not from the Government.

21 THE COURT: Anything else from the defense.

22 MR. SCHACHTER: No, your Honor.

23 THE COURT: Thank you. We're adjourned for the day.
24 Have a good evening everyone.

25 (Continued on the next page.)

1 (Whereupon, the trial adjourned at 5:03 p.m. to
2 resume Thursday, October 17, 2019 at 9:30 a.m.)

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